

**National Insurance and Social Security**

Cap. 47.

NATIONAL INSURANCE AND SOCIAL SECURITY  
(EMPLOYMENT INJURY BENEFIT)  
REGULATIONS, 1970

1971/7.  
1975/10  
1978/4.  
1982/23.  
1982/99.  
1984/144.  
1985/124.  
1988/116.  
1989/67.  
2003/9.  
2006/138.

**Authority:** These Regulations were made on 30th December, 1970 by the Minister under section 50 of the *National Insurance and Social Security Act*.

**Commencement:** 4th January, 1971.

**1.** These Regulations may be cited as the *National Insurance and Social Security (Employment Injury Benefit) Regulations, 1970*. Short title.

PART I

*Preliminary*

- 2.** For the purposes of these Regulations, the expression Interpretation.
- "appointed day" means 4th January, 1971;
- "benefit" means any benefit under the Act;
- "Benefit Regulations" means the *National Insurance and Social Security (Benefit) Regulations, 1967*; 1967/45.
- "claimant" means a person claiming benefit, and includes, in relation to the review of an award or decision, a beneficiary under the award or affected by the decision;
- "Collection Regulations" means the *National Insurance and Social Security (Collection of Contributions) Regulations, 1967*; 1988/116.
- "contribution" means insurance contribution;
- "contribution quarter" has the meaning assigned to it by the Collection Regulations;
- "day" means a period of 24 hours from midnight or such other period as may be prescribed;

"the deceased", in relation to death benefit, means the person in respect of whose death the benefit is claimed or payable;

"Director" means the Director, National Insurance;

"insurable earnings" means insurable weekly earnings as set out in the Schedule to the Collection Regulations;

"insurance contribution" means the total of an employer's and an employed person's contributions payable in accordance with the provisions of the Act;

"insured person" means a person insured under section 14 of the Act;

"invalid" means a person incapable of work as a result of a specific disease, or bodily or mental disablement which is likely to remain permanent;

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

2006/138. "medical practitioner" means a registered medical or dental practitioner, and includes a person practising medicine or dentistry outside Barbados who, not being a registered medical or dental practitioner, is qualified to practice medicine or dentistry and is not prohibited from so doing under the law of the place where he practices;

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

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

"sickness benefit", "maternity benefit", "invalidity benefit" and "old age contributory grant or pension" mean respectively sickness benefit, maternity benefit, invalidity benefit and old age contributory grant or pension payable in accordance with section 21(1) of the Act.

PART II

*Injury Benefit*

3. For the purposes of this Part, the expression “injury benefit period” means, in relation to any accident, the period of 52 weeks beginning with the day of the accident, or the part of that period for which, under regulation 7(2), disablement benefit in respect of the relevant accident is not available to the insured person.

Meaning of "injury benefit period".

4. (1) Subject to these Regulations, an insured person shall be entitled to injury benefit in respect of any day during the injury benefit period on which, as a result of the relevant injury, he is incapable of work.

Entitlement to, and rate of injury benefit.

(1A) An insured person shall be entitled to receive the benefit referred to in paragraph (1) where the insured person is injured outside of Barbados and whilst in the employment of his employer.

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(2) In determining for the purposes of this Part and of Part I of the *National Insurance and Social Security (Benefit) Regulations* whether the insured person is incapable of work on the day of the relevant accident, any part of that day before the accident happened shall be disregarded.

1967/45.

(3) Subject to paragraph (4), injury benefit shall be payable at the appropriate weekly rate calculated in accordance with the *First Schedule*, and the amount payable for any day of incapacity shall be one-sixth of the weekly rate (Sundays being disregarded).

First Schedule.

(4) Where any further period of incapacity resulting from the relevant accident for which benefit is payable occurs within the injury benefit period, the daily rate of benefit so payable shall be the daily rate of benefit which was, or would have been, appropriate to the first period of incapacity resulting from the relevant accident and the first period and such further period or periods shall, for the purposes of regulation 5(1), be treated as one continuous period of incapacity for work.



(6) Subject to paragraph (7), injury benefit shall not be paid to an insured person for any day prior to the first date as from which he has been certified by a registered medical practitioner to have been incapable of work: but the Director may pay benefit from an earlier date, subject to paragraph (1), having regard to the prescribed time for claiming benefit.

(7) A claim for injury benefit shall be made in the prescribed manner and shall be supported by a certificate of a registered medical practitioner or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work; but 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 registered medical practitioners appointed by the Board.

6. Subject to regulations 4 and 5, injury benefit shall be paid so long as the incapacity for work as a result of the accident continues, but shall not be paid for longer than 52 weeks from the date on which the relevant accident occurred.

Duration of  
injury  
benefit.

### PART III

#### *Disablement Benefit*

7. (1) Subject to paragraph (2), an insured person shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with regulation 10 amounts to not less than 1 per cent; and for the purposes of that regulation there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to 1 per cent.

Entitlement  
to and  
duration of  
benefit.

(2) Disablement benefit shall not be available to an insured person until after the third day of the period of 52 weeks beginning with the day on which the relevant accident occurred nor until after the last day (if any) of that period on which he is incapable of work as a result of the relevant injury: but where he makes a claim for disablement benefit in respect of the relevant accident before the end of that period and does not withdraw it before it is finally determined, then, if on any day of that period not earlier than the making of the claim he is not incapable of work as aforesaid, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this paragraph.

(3) Where the extent of the disablement is assessed for the period taken into account as amounting to less than 30 per cent, disablement benefit shall be paid in the form of a disablement grant and the amount payable shall

- (a) if the period taken into account by the assessment is limited by reference to the claimant's life or is not less than 7 years, be a grant equal to 365 times the amount which bears to the weekly amount of the total disablement benefit the same ratio as the percentage loss of faculty, as assessed, bears to 100 per cent;

(b) in any other case, be a grant equal to the number of weeks for which the assessment has been given times the amount which bears to the weekly amount of the total disablement benefit the same ratio as the percentage loss of faculty, as assessed, bears to 100 percent;

(4) Where the extent of the disablement is assessed for the period taken into account as amounting to 30 per cent or more, the disablement benefit shall be paid in the form of a pension for that period, payable weekly in arrear, and shall be that proportion of the total disablement benefit which the percentage assessed bears to 100 per cent: but where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before the date.

Rate of disablement benefit.

8. The rate of disablement benefit shall be determined in accordance with the First Schedule.

Increase of account of constant attendance.

9. (1) Where a disablement benefit is payable in respect of an assessment of 100 per cent, then, if the Director is satisfied that as a result of the relevant loss of faculty the beneficiary requires the constant attendance of another person the rate of pension payable shall be increased by 50 per cent.

(2) An increase of pension under paragraph (1) shall be payable for such period as may be determined by the Director at the time it is granted, but may be renewed from time to time: but no such increase shall be payable in respect of a period for which the beneficiary is receiving medical treatment as an in-patient in a hospital or other similar institution.

(3) Subject to paragraph (4), where a person is awarded disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than 100 per cent, it shall be treated as assessed at 100 per cent for any part of that period, whether before or after making of the assessment or the award of benefit, during which he

- (a) receives, as an in-patient in hospital or other similar institution, medical treatment for the relevant injury or loss of faculty; or
- (b) is incapable of work as a result of the relevant injury or loss of faculty; but it shall not be so treated for any period more than two hundred and sixty weeks from the date of the relevant accident.

(4) Where the extent of the disablement is assessed at less than thirty per cent, the weekly rate of benefit payable in accordance with paragraph (3) shall be reduced for the period to be taken into account by the amount which would have been payable weekly but for the provisions of this paragraph, had a pension been payable in lieu of a grant.

**10.** (1) Subject to paragraphs (2) to (6), for the purpose of disablement benefit, 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

Assessment  
of extent of  
disablement.

- (a) Save as hereafter provided in this paragraph, the disabilities to be taken into account shall be all the disabilities (whether or not involving loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical or mental condition at the date of assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
- (b) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to paragraph (2), it shall not be so treated in so far as the claimant either
  - (i) would in any case have been subject thereto as a result of a congenital defect or of an injury or disease received or contracted before the relevant accident or injury, or
  - (ii) would not have been subject thereto but for some injury or disease received or contracted after, and not directly attributable to that accident;

THE LAWS OF BARBADOS



(c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex, and physical or mental condition.

Second  
Schedule.

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

Second  
Schedule.

(3) For the purpose of assessing, in accordance with this regulation, the extent of the disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (2), the medical appeal tribunal or medical board may have such regard as may be appropriate to the prescribed degrees of disablement set against the injuries specified in the Second Schedule.

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

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

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

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

Provided that

- (a) such percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with regulation 7 the claimant's right to disablement benefit; and
- (b) a percentage between thirty 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.

**11.** Where a person suffers two or more successive accidents, Successive  
accidents. against which he is insured under the Act

- (a) he shall not for the same period be entitled to receive injury benefit and disablement benefit, but shall be entitled to receive the benefit which is payable at the higher rate:

Provided that where the disablement benefit is a disablement grant, the weekly rate of injury benefit shall be reduced during the unexpired portion of the period by reference to which the disablement grant was assessed, by the amount which would have been payable weekly had a pension been payable in lieu of grant;

- (b) he shall not for the same period be entitled to receive more than one disablement benefit, but in assessing his degree of disablement in connection with the second or subsequent claim to disablement benefit, the total degree of disablement arising from all the relevant injuries and diseases shall be assessed, and he shall be entitled to disablement benefit based on that assessment in lieu of any previous assessments, and the rate of benefit so payable shall be computed by reference to whichever of the rates assessed in accordance with the First Schedule was the higher prior to any of the relevant accidents;
- (c) if during a period covered by an assessment of disablement for which a disablement grant has been paid, he suffers a further accident, the total degree of disablement arising from all the relevant injuries shall be assessed, and

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he shall be entitled to disablement pension or disablement grant, as appropriate to such degree of disablement, but either

- (i) the weekly rate of disablement pension shall be reduced during the unexpired portion of the period by reference to which the disablement grant was assessed by the amount which would have been payable weekly had a pension been payable in lieu of a grant, or
- (ii) the amount of the disablement grant shall be reduced by the amount of the equivalent of the unexpired portion of the grant previously paid:

Provided that prior to any reduction as in subparagraph (i) or (ii), the rate of disablement pension or the amount of the disablement grant which is payable on the second or subsequent occasion shall be computed by reference to whichever of the amounts assessed in accordance with the First Schedule was the higher prior to any of the relevant accidents.

## PART IV

### *Medical Expenses*

Prescribed  
medical  
expenses.

**12.** (1) Subject to the provisions of this Part, an insured person shall be entitled to the refund of expenses (hereinafter referred to as medical expenses) incurred by him as a result of the relevant accident in respect of the following

- (a) medical, surgical, dental and hospital treatment, skilled nursing services and the supply of medicines;
- (b) to supply, fitting, maintenance, repair and renewal of artificial limbs, dentures, spectacles, and other apparatus and appliances;
- (c) the cost of travelling for the purposes of obtaining any of the foregoing.

(2) Any medical expenses refunded under this Part shall not exceed the amount of

- (a) the reasonable expenses reasonably incurred by the claimant;  
and
  - (b) the expenses of obtaining treatment which is so provided as to secure maximum effectiveness at minimum reasonable cost.
- (3) The fees or charges constituting the aforesaid medical expenses shall not be more than would be properly and reasonably charged to the insured person if he were paying them himself.
- (4) The amount of any such fees and charges which may be refunded under this Part in any case shall be determined by the Director.

**13.** Medical expenses for which a person is eligible during his absence from Barbados shall be paid in Barbados to such representative acting for and on behalf of the person concerned as may be approved under this Part.

Payment of medical expenses during absence from Barbados.

**14.** (1) Where an insured person suffers personal injury by accident

Medical expenses incurred outside of Barbados.

- (a) in Barbados, and incurs medical expenses outside of Barbados, the amount refunded under this Part shall not, subject to paragraph (2), exceed the amount that, in the opinion of the Director, would have been refundable under regulation 12 had the expenses been incurred in Barbados; or
- (b) outside of Barbados, and incurs medical expenses outside of Barbados, the amount refunded under this Part shall not, subject to paragraph (2), exceed the amount of the expenses which may be refunded under regulation 12(1)(c) and subparagraph (a) of this paragraph;

but in no case shall the said amounts exceed one thousand dollars.

(2) Any limitation as to the amount or class of medical expenses which may be defrayed under this regulation shall not apply where such expenses were incurred abroad with the approval of the Board.

2006/138.

Power of Board to make direct payment for medical expenses.

**15.** Notwithstanding anything contained in this Part, where the Board considers it desirable so to do, it may, instead of refunding to an insured person any medical expenses incurred by that person, pay to a medical practitioner or institution from whom or at which that person obtained treatment a sum equal to such medical expenses or such part thereof as may be refunded under these Regulations.

Board may require re-payment of medical expenses refunded to insured person.

**16.** (1) Where a medical practitioner from whom, or an institution at which, an insured person has obtained treatment for personal injury suffered by accident is not paid by or on behalf of that insured person any amount due in respect of such treatment, then, if any medical expenses incurred by the insured person in respect of such treatment have been refunded by the Board under this Part to or in respect of that insured person, the Board may require that insured person or any other person to whom the medical expenses were refunded, to repay to the Board the amount refunded or such part thereof as the Director may determine.

(2) Any amount required by the Board to be repaid pursuant to paragraph (1) may be recovered as a debt due to the Board in accordance with section 43 of the Act or by deduction from any other benefit payable by the Board to or in respect of that insured person.

#### PART V

##### *Funeral Grant*

Entitlement to funeral grant.

**17.** (1) A funeral grant shall be payable to the person who has met or is liable to meet the cost of the funeral of the insured person whose death was due to the personal injury caused by accident arising out of and in the course of his employment.

(2) Where

(a) death occurred at sea and the deceased person was buried at sea; or

(b) the person who has met or is liable to meet the cost of the funeral of the deceased person cannot be found; or

(c) the cost of the funeral was less than the amount of the grant,

the grant, or, as the case may be, the remainder thereof, shall be paid to such person or persons as the Board may decide.

(3) The funeral grant shall be such amount as is prescribed by order pursuant to section 25A of the Act. 2006/138.

## PART VI

### *Death Benefit*

**18.** (1) Subject to this Part, death benefit shall be paid in the case of death due to employment injury to the dependants of the deceased insured person in the following order of priority and for the following periods: Entitlement to death benefit. 1985/124.

- (a) where the deceased is survived by a spouse who had been wholly or mainly maintained by the deceased at the time of death, for life; and
- (b) unmarried children, including adopted children and step-children of the deceased, who at the date of death of the deceased were living with or were wholly or mainly maintained by the deceased at the time of the death of the deceased; and any such benefit shall be payable in respect of a child
  - (i) subject to sub-paragraphs (ii) and (iii), until the child attains his 16th birthday; or
  - (ii) where the child is in full time education in an approved educational institution within or outside of Barbados, until he attains his 21st birthday; or
  - (iii) where the child is an invalid, during the period in which the invalidity continues; and
- (c) any other person, including a spouse or children not qualifying under sub-paragraph (a) or (b) who the Director adjudges were wholly or in part dependent upon the earnings of the deceased at the time of the death of the deceased or would but for the incapacity or disablement due to the relevant accident have been so dependent.

(2) A person to whom sub-paragraph (c) of paragraph (1) refers shall not be deemed in part dependent upon the earnings of the deceased person unless such person was dependent partially on financial support from the deceased for the provision of the ordinary necessities of life suitable for a person of his position; and any such benefits are payable for a period of 52 weeks commencing from the date of death of the deceased.

(3) In this regulation, "approved educational institution" means any educational institution approved by the Director for the purposes of this regulation.

2006/138. (4) For the purpose of determining entitlement to death benefit,

(a) "child" means a child of an insured person whether born before or after the insured person's death and includes

(i) an individual adopted legally or in fact by the insured person while the individual was under 16 years of age;

(ii) an individual of whom, either legally or in fact, the insured person had, or immediately before the individual reached 25 years of age did have, the custody and control,

but does not include a child who is adopted legally or otherwise by someone other than the insured person or his spouse prior to the death or disability of the insured person unless the insured person was maintaining the child;

(b) "dependant child" means a child of an insured person who

(i) is less than 16 years of age;

(ii) is 16 years of age or more but less than 25 years of age and is in full-time attendance at an approved educational institution; or

- (iii) is a child other than a child described in paragraph (ii) who was 16 years or more of age and is disabled, having been disabled without interruption since the time he reached 16 years of age or the time of the insured person's death.

**19.** For the purposes of this Part, the expression "widow" or "widower" in relation to a person who has been married more than once refers only to the last husband or wife, as the case may be.

Meaning of "widow" and "widower".

**20.** For the purposes of this Part,

(a) where it is a condition for title to death benefit that

Special treatment in case of death of persons living in certain associations. 1985/124.

- (i) a woman is the spouse 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 spouse; or
- (ii) a man is the spouse 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 spouse;

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 of the date of marriage or remarriage arises in regard to the title or cessation of title to death benefit, the Director shall, in the absence of the subsistence of lawful marriage and of any impediment to lawful marriage, decide whether or not the person or persons concerned should be treated as if he, she or they were married or as if he or she had remarried, as the case may be, and if so, from what date and, in determining the question, the Director shall have regard to the provisions of paragraph (a);



reg.21

- (c) the determination of the Director under paragraph (a) or (b) shall, unless the context otherwise requires, have the effect of extending, as regards title or cessation of title, to 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 a single man or widower as aforesaid, with such a single woman or widow as aforesaid, and for this purpose the words "wife", "husband", "widow" and "widower" and "spouse" shall be construed accordingly.

1985/124.

Determina-  
tion of  
weekly rate  
of death  
benefit.  
First  
Schedule.  
1985/124.

**21.** (1) The weekly rate of death benefit available for payment shall be determined in accordance with the provisions of the *First Schedule* and shall be allocated to dependants as follows:

- (a) one-half of the benefit available for payment, to the person qualified under regulation 18(1)(a);
- (b) one-sixth of the benefit available for payment, to each child qualified under regulation 18(1)(b) except that in respect of any child who is an orphan or who is an invalid the rate of benefit payable may be fixed at one-third of the maximum benefit so available;
- (c) in the case of any other dependant qualified under regulation 18(1)(c), one-sixth of the benefit available for payment, except that in respect of a person who was wholly dependent upon the deceased at the date of death the benefit payable may be fixed at up to one-half of the maximum benefit so available.

(2) Nothing in this Part shall prevent a person who was not eligible for a death benefit because of the application of regulation 18 (in relation to the order of priority to be observed in making payments of death benefit), although otherwise entitled, from becoming eligible for such payment from and including the day following the cessation of benefit in respect of person or persons previously entitled to it: but in the case of a dependant under

paragraph (1)(c), a period of 52 weeks has not elapsed since the date of death of the deceased and that any payment of benefit shall be limited to that balance of the said 52 weeks which remains.

(3) Subject to paragraph (5), death benefits payable 1985/124.

(a) to or in respect of a spouse under regulation 18(1)(a) shall cease on remarriage or cohabitation as the case may be;

(b) to or in respect of a child under regulation 18(1)(b) shall cease on marriage or cohabitation as the case may be;

(c) to or in respect of a dependant under regulation 18(1)(c) shall cease if the dependant concerned marries, remarries or cohabits as the case may be.

(4) Death benefit which has been payable to a dependant notwithstanding that dependant's cohabitation (where cohabitation existed at the date of death of the relevant deceased person), shall cease forthwith if the said dependant cohabits with some different person.

(5) In the case of a spouse whose benefit was payable under regulation 18(1)(a), a gratuity shall be payable on the termination of any pension in consequence of the re-marriage of the spouse of an amount equal to 52 times the weekly rate of pension to which the spouse was then entitled.

## PART VII

### *Miscellaneous*

22. Notwithstanding that a person is entitled to 2 or more of the benefits under the Act at the same time, then, except as provided in regulation 11 and in this regulation, only one benefit shall be payable to such person and the benefit so payable shall be the benefit first awarded unless the other benefit is payable at a higher rate, in which case he shall be paid the benefit at such higher rate:

Entitlement to more than one benefit.

Provided that

- (a) if the last-mentioned benefit ceases to be payable, then, nothing shall prevent the award or re-instatement of another benefit to which such person is entitled under the Act; and
- 2006/138. (b) nothing in this regulation shall preclude the full duplication of
  - (i) injury benefit with sickness benefit where the insured person has 2 jobs;
  - (ii) injury benefit with old age contributory benefit or death benefit;
  - (iii) disablement benefit with sickness benefit, maternity benefit, survivor's benefit, death benefit or old age contributory pension or grant;
  - (iv) death benefit with sickness benefit, maternity benefit, injury benefit, invalidity benefit, old age contributory pension or grant, or disablement benefit;
- (c) any other benefit may be duplicated in full with funeral grant;
- (d) there shall be no duplication of a funeral grant payable under section 21(1) of the Act with a funeral grant payable under section 21(3) thereof;
- (e) where an insured person is eligible for both disablement benefit and invalidity benefit, he shall be paid the benefit which is the more favourable to him;
- (f) there shall be no duplication of sickness benefit and an increase of disablement benefit on account of hospital treatment under regulation 9(3)(a) or on account of incapacity under regulation 9(3)(b).

**23.** (1) If it is found that any person has received any sum by way of benefit to which he is not entitled, he may be liable to repay to the Fund the sum so received by him.

Refund of benefit improperly paid.

(2) Where any person is liable to repay any sum received by him by way of benefit, that sum may be recovered, without prejudice to any other remedy, by means of deductions from any other benefit to which he thereafter becomes entitled.

(3) Any such sum not so recovered shall be treated as expenditure on and charged to the Fund.

**24.** (1) For every contribution week for the whole of which an insured person received any of the following benefits or any combination of such benefits, namely:

Credited contributions.

- (a) injury benefit;
- (b) disablement benefit increased on account of hospital treatment under regulation 9(3)(a);
- (c) disablement benefit increased on account of incapacity under regulation 9(3)(b);
- (d) disablement benefit assessed at 100 per cent;
- (e) sickness benefit;
- (f) maternity benefit; and
- (g) unemployment benefit,

1982/99.

1982/99.

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

Provided that no contribution shall be credited to a person in respect of disablement benefit assessed at 100 per cent if that person is not incapable of work as a result of the relevant loss of faculty.

(2) For the purposes of this regulation, “insured person” means a person insured pursuant to section 12 of the Act.

1978/4. (3) A credited contribution shall, subject to these Regulations, be valid for sickness, injury, disablement, maternity and invalidity benefit and for old age contributing grant or pension and be equal to the average weekly earnings on the basis of which the benefit had been paid; but where the benefit was payable at different rates during the contribution week, the credited contribution for that week shall be equal to the value of the highest average weekly earnings on the basis of which benefit was payable.

Special provisions relating to persons absent abroad. 2006/138. **25.** (1) A person shall not be disqualified for receiving employment injury benefit or disablement benefit for any period during which that person is absent from Barbados.

(2) Where a person who is eligible for employment injury benefit or disablement benefit under these Regulations is abroad

(a) the employment injury benefit or disablement benefit shall be paid in Barbados to such representative acting for and on behalf of the person concerned, as may be approved by the Director; or

(b) the employment injury benefit or disablement benefit may, where in the opinion of the Director it is necessary to alleviate hardship, be paid to that person in the country where he is staying.

(3) Where a person who is eligible for a disablement benefit under these Regulations is resident abroad, the disablement benefit may be paid to that person in the country where he is residing.

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

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

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FIRST SCHEDULE

1982/23.  
1985/124.  
1988/116.  
2006/138.

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

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

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

(3) For the purposes of sub-paragraphs (1) and (2) the expression “the average insurable weekly earnings” means 2006/138.

- (a) where the insured person has 7 or more contributions actually paid with the employer in the contribution quarter but one immediately preceding the contribution quarter in which the accident happened, the sum of the insurable earnings on which such contributions were based over that period of the quarter but one immediately preceding the contribution quarter in which the accident occurred divided by the number of contribution weeks;
  - (b) where the insured person does not have 7 or more contributions actually paid with the employer in the contribution quarter but one immediately preceding the contribution quarter in which the accident happened but has 7 or more contributions actually paid with the employer in the contribution quarter immediately preceding the contribution quarter in which the accident happened, the sum of the insurable earnings on which such contributions were based over that period divided by the number of the contribution weeks;
- and

- (c) where the insured person does not have 7 or more contributions actually paid with the employer in the contribution quarter immediately preceding the contribution quarter in which the accident occurred, the sum of the insurable earnings on which contributions were based over that part of the contribution quarter immediately preceding the contribution week in which the accident occurred divided by the number of contribution weeks:

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

(4) Where the insured person was employed by 2 or more employers at the date of the injury, all contributions paid by these employers for the quarter being used to determine the average insurable earnings shall be taken into account.

(5) Where the injury occurs in the first week of a quarter and the average insurable weekly earnings cannot be determined under sub-paragraph (3)(a), (b), or (c) any contributions paid by the employer in the contribution quarter immediately before the date of injury may be used.

(6) Where there are no paid contributions in the contribution quarter immediately before the quarter in which the injury occurred, and any contributions paid by the employer in the quarter but one before the quarter in which the injury occurred may be used.

2006/138. (3A) Where however, in the relevant quarter an insured person had more than one employer, regard may be had to the earnings on which contributions were paid by the other employer or employers during the relevant quarter, and the benefit shall be computed on the total insurable earnings from all employers during that relevant quarter, regard being had to the maximum earnings on which contributions are payable.

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

2. (1) The weekly rate of death benefit available for payments to survivors shall be 90 per cent of the average insurable weekly earnings of the deceased. 1982/23.  
1985/124.

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