

**ARRANGEMENT OF REGULATIONS**

***Regulation***

**PART I**

**PRELIMINARY**

1. Short title.
2. Interpretation.

**PART II**

**CLAIMS**

3. Claims to be made in writing.
4. Information to be given.
5. Date of claims.
6. Amendments of claims.
7. Interchange of claims.
8. Time for claiming.

**PART III**

**BENEFITS**

A. Sickness Benefit

9. Entitlement.
10. No entitlement after age sixty-five.
11. Support of claim.
12. Conditions which must be satisfied.
13. Commencement.
14. Duration.
15. Rate of benefit.

B. Maternity Benefit

16. Entitlement.
17. Support of Claim.
18. Conditions to be satisfied.
  
19. Certificate of confinement.
20. Duration of maternity allowance.
21. Amount of grant and rate of allowance.

C. Invalidation Benefit

22. Entitlement.
23. Support of claim.
24. Conditions to be satisfied.
25. Invalidation grant.
26. Duration.
27. Rate of invalidity pension.
28. Amount of invalidity grant.

D. Age Benefit

29. Age pension: Entitlement and conditions to be satisfied.
30. Rate of age pension.
31. Age grant: Entitlement and conditions to be satisfied.
32. Age pension for those over age fifty-five on July 1, 1980.

E. Funeral Grant

33. Entitlement.
34. Condition to be satisfied.
35. Support of claim.
36. Amount.

F. Survivor's Benefit

37. Entitlement.

- 38. Conditions to be satisfied.
- 39. Rate of benefit.

#### **PART IV**

##### **PAYMENT OF BENEFIT**

- 40. Time and manner of payment of benefit.
- 41. Information to be given when obtaining payment.
- 42. Extinguishment of right to sums payable by way of benefit not obtained within prescribed time.
- 43. Beneficiaries to notify changes of circumstances.
- 44. Persons unable to act.
- 45. Payment on death.

#### **PART V**

##### **MISCELLANEOUS**

- 46. Entitlement to more than one benefit.
- 47. Beneficiaries abroad.
- 48. Payment to beneficiaries abroad.
- 49. Deferral of claims and forfeiture.
- 50. Persons undergoing imprisonment or detention.
- 51. Institutionalized persons.
- 52. Power to appoint medical referees.
- 53. Increase of amount of pension awarded.

##### **SCHEDULE**

**THE SOCIAL SECURITY (BENEFITS) REGULATIONS MADE JUNE 10,  
1980 UNDER SECTIONS 26, 27, 28, 33 40 AND 44 OF THE SOCIAL  
SECURITY ORDINANCE**

**PART 1**

**PRELIMINARY**

Short title.

1. These Regulations may be cited as the Social Security (Benefits) Regulations.

Interpretation.  
20/1994

2. In these Regulations, unless the context otherwise requires \_\_\_\_\_

“appeal tribunal” means an appeal tribunal established under the Social Security (Decisions and Appeals) Regulations;

“claimant” means a person claiming benefit and includes a person claiming on behalf of another person;

“confinement” means labour resulting in the birth of a living child or labour after not less than twenty-eight weeks of pregnancy resulting in the birth of a child whether alive or dead;

“contribution week” and ‘contribution year’ have the same meaning as assigned in the Contributions Regulations;

“Contribution Regulations” means the Social Security (Contributions) Regulations;

“determining authority” means, as the case may require, the Board, the Director, an appeals tribunal or the High Court;

“grant” means maternity, invalidity, age, or survivor’s benefit paid in a single payment;

“invalid” means a person incapable of work as the result of a specific disease or bodily or mental disablement, other than employment;

injury, being such a disease or disablement as is likely to remain permanent, and ‘invalidity’ shall be construed accordingly;

“insurable earnings” means the wages of an insured person as determined in accordance with Regulation 4 of the Contribution Regulations.

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

“medical practitioner” includes a person practicing medicine outside the Territory who, not being a registered practitioner is qualified to practise medicine and is not prohibited from doing so under the law of the place where he practices;

“week of insurable employment” means any contribution week in which a person is engaged in employment which is insurable by virtue of the provisions of section 18 of the Ordinance.

**2A.** Where in these Regulations it is a condition of title to benefit that a person is the wife, husband, widow or widower of an insured person, the Director may treat \_\_\_

Single person to be treated as if married.

(a) a single woman or widow who was living with a single man or widower as if in law, she was his wife; or

(b) a single man or widower who was living with a single woman or widow as if in law, he was her husband.

## PART II

### CLAIMS

**3.** (1) A claim for benefit shall be made in writing to the Director on the form approved by the Board for the purpose of claiming the benefit, or in such other manner as the Director may accept as sufficient in the circumstances of any particular case or class of cases.

Claims to be made in writing.

(2) Forms for claiming shall be supplied without charge by the Board.

Information to be given.

**4.** (1) A claimant shall furnish such certificates, documents, information and evidence for the purpose of determining the claim as prescribed by these Regulations, and the Director may require any claimant to attend such place as he may specify and thereto to submit himself to medical or other examination by one or more medical practitioners or other persons appointed by the Board for that purpose.

(2) A claimant shall furnish the following information concerning himself and any person making a claim on behalf of another person shall also furnish such information about the person for whom the benefit is claimed \_\_

- (a) his name, acceptable evidence of the date of birth, usual place of residence, nature of employment or former employment and, in the case of a person who is not the claimant; his relationship to the claimant and
- (b) in the case of a claim in respect of a wife or husband, or a widow or widower, a certificate of marriage, together with a declaration confirming the information given.

(3) The Director may accept in support of claims and in the absence of any certificate or document mentioned in this Regulation \_\_

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

Date of claims.

**5.** For the purpose of any claim to the benefit the day of receipt of the claim at the office of the Director shall be deemed to be the date of the claim.

Amendment of claims.

**6.** A claimant who has made a claim in accordance with these Regulations may amend the claim at any time before a decision has been given thereon, by notice in writing delivered or sent to the Director, and any claim so amended shall be treated as if it had been duly made in the first instance.

7. Where it appears that a claimant for one benefit is in fact entitled to some other benefit, the claim may be treated by the Director as a claim for that other benefit.

Interchange of  
claims

8. (1) The time for claiming benefit shall be \_

Time for  
claiming.  
41/2000

(a) in the case of sickness benefit, not later than thirty days from the day on which the incapacity for work commenced;

(b) in the case of maternity benefit \_\_

(i) if the benefit is claimed before confinement, not earlier than thirteen weeks beginning with the contribution week before the contribution week in which it is expected that the claimant will be confined;

(ii) in any other case, within four weeks of the date of confinement;

(c) in the case of invalidity, age or survivor's benefit, within three months from the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto; and

(d) in the case of funeral grant, within six months from the date of death.

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

(a) sickness benefit in respect of any more than seven days before the date on which the claim was made, subject to Regulation 13;

(b) maternity grant;

(c) maternity allowance in respect of any day before the beginning of the contribution week in which the claim is made;

- (d) invalidity, age or survivor's benefit in respect of any period more than three months before the date on which the claim is made;
- (e) funeral grant.

(3) If the claimant proves, to the satisfaction of the Director, that there was good cause for the delay in making the claim to benefit, the Director may treat the claim as having been made in time, subject to paragraph (4).

(4) Notwithstanding the provisions of paragraph (3) no sum shall be paid \_\_

- (a) by way of sickness, maternity, invalidity, age, or survivor's benefit in respect of any period more than six months before the date on which the claim therefore is duly made; or
- (b) by way of funeral grant if the claim therefore is not duly made within twelve months after the date of the death of the person in respect of whom the grant is payable.

### **PART III**

### **BENEFITS**

#### **A. Sickness Benefit**

**9.** Subject to these Regulations, sickness benefit shall be awarded to an insured person who is incapable of work as a result of some specific disease or bodily or mental disablement other than employment injury.

Provided, however, that a person shall be treated as incapable of work if he is under observation by reason of being a carrier, or is or has been a contact of infectious disease.

**9A** (1) Where an insured person employed by or under the Crown is awarded sickness benefit and in addition receives his full emoluments while on sick leave the sickness benefit received by him shall be deducted from his emoluments.

(2) For the purposes of subsection (1) “emoluments” means a person’s basic salary or wages, as the case may be.

**10.** Payment of sickness benefit shall cease when a person attains the age of sixty-five years. No entitlement after age sixty-five.

**11.** A claim for sickness benefit shall be supported by a certificate of a medical practitioner in accordance with the Schedule to these Regulations or by such other evidence as the Director may require for the purpose of establishing the insured person’s incapacity for work. Support of claim.

**12.** (1) Sickness benefit shall be payable to a person who\_\_ Conditions which must be satisfied.

(a) has paid contributions in respect of twenty-six weeks of insurable employment; and

(b) has paid contributions in respect of eight weeks of insurable employment in the thirteen contribution weeks immediately preceding the contribution week in which the first day of incapacity in any one continuous period of incapacity for work occurred.

(2) Contributions paid at the rate specified in the proviso to Regulation 4 of the Contributions Regulations shall not entitle any insured person to the benefits specified in this Regulation.

**13.** Sickness benefit shall not be payable where the duration of incapacity is only for three days. Commencement.

Provided, however, where such incapacity is for a period exceeding three days such benefit shall be payable from the first day of such incapacity.

**14.** Subject to the provisions of these Regulations, sickness benefit shall be payable for five days in any one week according to work schedule and shall continue for as long as the incapacity continues, subject to a maximum period of twenty-six weeks in any one continuous period of incapacity for work. Duration.

**15.** (1) The weekly rate of sickness benefit in any one continuous period of incapacity for work shall be sixty-six and two-thirds per centum of the average Rate of benefit 20/1994.

weekly insurable earnings of the insured person during the thirteen contribution weeks immediately preceding the contribution week in which incapacity for work occurred.

(2) The daily rate of sickness benefit shall be the weekly rate divided by five.

#### B. Maternity Benefit

Entitlement.

**16.** Maternity benefit shall consist of \_\_\_\_

- (a) maternity allowance which shall be payable to a woman in respect of her pregnancy on the basis of her insured employment; and
- (b) maternity grant, which shall be payable to a woman on the basis of her insured employment and where both the woman and her husband are in insurable employment two grants shall be payable.

Support of claim

**17.** A claim for maternity benefit shall be supported by a certificate of a medical practitioner or a midwife in accordance with the Schedule to these Regulations or by such other evidence as the Director may require for the purpose of establishing the pregnancy or confinement, as the case may be.

Schedule

Conditions to be satisfied.  
20/1994

**18. (1)** Maternity allowance shall be payable to a woman who \_\_\_\_

- (a) has paid contributions in respect of twenty-six weeks of insurable employment; and
- (b) who has paid contributions in respect of twenty weeks of insurable employment in the thirty-nine weeks immediately preceding the contribution which is six weeks before the expected week of confinement or the week from which the allowance is claimed, which is the later.

(2) Maternity grant shall be payable to a woman upon proof that her hospital bill has been paid, if either she or her husband has paid contributions in respect of twenty-six weeks of insurable employment.

(3) Notwithstanding paragraph (2), where a hospital bill in respect of a woman entitled to maternity grant remains unpaid for a period of thirty days after termination of a period of confinement, the Board may utilize the grant, in whole or in part, to pay the hospital bill.

**19.** A woman who has been awarded maternity allowance shall obtain a certificate of her confinement in accordance with the schedule to these Regulations and send it to the Director within three weeks of her confinement, or within the same period, furnish the Director with such other evidence of confinement as he may require.

Certificate of confinement. Schedule

**20.** Subject to these Regulations, maternity allowance is payable for a short period commencing from a date not earlier than 6 weeks before the expected date of confinement and continuing until the expiration of \_

Duration of maternity allowance.

(a) a period of 13 weeks; or

(b) a period of 6 weeks from the week of confinement,

whichever is the earlier.

**21.** (1) The amount of maternity grant shall be two hundred dollars \_

Amount of grant and rate of allowance. 20/1994

(2) The weekly rate of maternity allowance shall be sixty-six and two-thirds per centum of the average insurable earnings of the insured person in the thirty-nine contribution weeks specified in Regulation 18(1) and the daily rate shall be the weekly rate divided by five.

### C. Invalidity Benefit

**22.** Subject to the provisions of these Regulations, invalidity benefit shall be awarded to an insured person who has been incapable of work for six months and who in the opinion of the Board is likely to remain permanently incapable of work.

Entitlement.

Support of claim

**23.** A claim for invalidity benefit shall be supported by a certificate of a medical practitioner in accordance with the Schedule to these Regulations or by such other evidence as the Director may require for the purpose of establishing the insured person's permanent incapacity for work.

Conditions to be satisfied.  
41/2000

**24.** Invalidity pension shall be awarded to a person who\_\_

- (a) has not attained the age of sixty-five years; and
- (b) has paid contributions in respect of five hundred weeks of insurable employment.

Invalidity grant.  
41/2000

**25.** (1) Subject to the provisions of these Regulations an insured person who does not qualify for an invalidity pension and who \_\_\_\_

- (a) in the opinion of the Board is likely to remain permanently incapable of work;
- (b) has not attained the age of sixty-five years; and
- (c) has paid contributions in respect of fifty weeks of insurable employment shall be entitled to an invalidity grant.

(2) Where the invalidity ceases, the contributions taken into account for the purposes of the invalidity grant shall not be applied towards satisfaction of the contributions conditions for any subsequent claim to a benefit of any description, except in the case of a funeral grant.

Duration

**26.** (1) Subject to the provisions of these Regulations, invalidity pension shall be payable so long as the person remains permanently incapable of work, but shall cease at the age of sixty-five when it shall be converted to an age pension of the same amount.

(2) A person who is in receipt of invalidity pension shall be obliged to submit to the Director, at intervals of six months, or such longer period as the Director may allow, medical evidence to establish that he is incapable of work.

27. (1) The annual rate of invalidity pension shall be thirty percent of the average insurable earnings of the person to which shall be added one per cent of his average annual insurable earnings for each complete fifty weeks of insurable employment in respect of which contributions have been paid by him in excess of the first five such hundred weeks.

Rate of invalidity  
pension.  
53/2005

Provided that in no case shall invalidity exceed sixty per centum of the insured person's average annual insurable earnings nor be less than forty-eight dollars a week.

(2) For the purposes of this regulation, average insurable earnings shall be calculated as follows:

- (a) with effect from 1<sup>st</sup> January 2006, on the highest insurable earnings during any four years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (b) with effect from 1<sup>st</sup> January 2007, on the highest insurable earnings during any five years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (c) with effect from 1<sup>st</sup> January 2008, on the highest insurable earnings during any six years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (d) with effect from 1<sup>st</sup> January 2009, on the highest insurable earnings during any seven years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (e) with effect from 1<sup>st</sup> January 2010, on the highest insurable earnings during any eight years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;

(f) with effect from 1<sup>st</sup> January 2011, on the highest insurable earnings during any nine years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;

(g) with effect from 1<sup>st</sup> January 2012, on the highest insurable earnings during any ten years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;

(3) The weekly rate of invalidity benefit shall be the annual rate thereof divided by fifty-two and rounded to the nearest multiple of ten cents.

(4) Where a person ceases to receive payment of invalidity pension, nothing in these Regulations shall prevent the contributions on which that invalidity pension was based from being taken into account for the purposes of establishing entitlement to a subsequent benefit.

**28.** (1) The amount of invalidity grant shall be a lump sum equal to six times the average insurable weekly earnings of the insured person for each fifty complete weeks of insurable employment.

(2) For the purposes of this Regulation average weekly insurable earnings shall be calculated on the highest earnings in any contribution year preceding the date of incapacity divided by fifty.

D. Age Benefit

**29.** Age pension shall be awarded to an insured person who has attained the age of sixty-five years and who has paid contributions of not less than five hundred weeks of insurable employment and the age pension shall be continued to be paid until the insured person's death.

**30.** (1) The annual rate of age pension payable to any person shall be thirty percent of the average annual insurable earnings after five hundred weekly contributions.

(2) In addition to the rates payable under paragraph (1) there shall be added one per centum of the insured person's average insurable earnings for each complete fifty weeks of insurable employment in respect of which contributions have been paid in excess of the first five hundred weeks, but in no case shall the

Amount of  
invalidity grant

Age Pension:  
Entitlement and  
conditions to be  
satisfied.  
41/2000

Rate of age  
pension  
20/1994  
41/2000  
53/2005

---

*Social Security (Benefits) Regulations*

age pension exceed sixty per centum of the insured person's average annual insurable earnings or be less than forty-eight dollars per week.

(3) The weekly rate of pension shall be the annual rate divided by fifty-two.

(4) For the purposes of this Regulation, average annual insurable earning shall be calculated as follows:

- (a) with effect from 1<sup>st</sup> January 2006, on the highest insurable earnings during any four years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (b) with effect from 1<sup>st</sup> January 2007, on the highest insurable earnings during any five years of the fifteen or less number of contribution years immediately preceding the contribution year
- (c) with effect from 1<sup>st</sup> January 2008, on the highest insurable earnings during any six years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (d) with effect from 1<sup>st</sup> January 2009, on the highest insurable earnings during any seven years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (e) with effect from 1<sup>st</sup> January 2010, on the highest insurable earnings during any eight years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (f) with effect from 1<sup>st</sup> January 2011, on the highest insurable earnings during any nine years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;
- (g) with effect from 1<sup>st</sup> January 2012, on the highest insurable earnings during any ten years of the fifteen or less number of contribution years immediately preceding the contribution year in which the insured person attained the age of sixty-five years;

Age grant:  
Entitlement and  
conditions to be  
satisfied

**31.** (1) Subject to the provisions of these Regulations age grant shall be payable to an insured person who does not satisfy the conditions set out in Regulation 29 but who\_\_

- (a) has attained the age of sixty-five years; and
- (b) has paid contributions in respect of not less than fifty weeks of insurable employment.

(2) The amount of age grant shall be a lump sum equal to six times the average weekly insurable earnings of the insured person for each fifty complete contribution weeks of insurable employment in respect of which contributions have been paid.

(3) For the purposes of this Regulation average weekly insurable earnings shall be calculated on the highest insurable earnings in any contribution year preceding the contribution year in which the person attained the age of sixty-five years.

Minimum  
pension.  
53/2005

**32.** (1) In no case shall an age pension awarded under the provisions of this Regulation be less than forty-eight dollars per week.

(2) For the purposes of this Regulation average annual insurable earnings shall be calculated in accordance with Regulation 30(2) and the weekly rate of age pension shall be calculated in accordance with Regulation 30(3).

E. Funeral Grant

Entitlement  
41/2000

**33.** (1) Subject to the provisions of these Regulations funeral grant shall be awarded on the death of a person who was \_\_\_\_

- (a) an insured person;
- (b) the spouse of an insured person; or
- (c) a child under the age of fifteen years or if he is continuing in full-time education, under the age of twenty-one years either of whose parents was an insured person,

if the contribution condition in Regulation 34 is satisfied, but only one funeral grant shall be paid by virtue of this Regulation in respect of any one death.

(3) A funeral grant shall be paid to any person who has met, or to any person who gives to the Director an undertaking in writing to meet, the whole part of the funeral expenses of the deceased.

(4) Any payment of a funeral grant to a person by virtue of paragraph (2) shall be subject to the condition that if that person fails to carry out the undertaking he shall repay to the Fund any funeral grant paid to him.

(5) Where \_\_\_\_

- (a) the death of a person in respect of whom a funeral grant is payable 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,

the benefit shall be paid to such person or persons as the Director in his discretion decide.

**34.** Funeral grant shall be paid in respect of an insured person who had paid contributions in respect of not less than twenty-six weeks of insurable employment.

Condition to be satisfied.

**35.** A claim for funeral grant shall be supported by a death certificate or such other evidence as the director may require for the purpose of establishing the death of the insured person or his or her spouse or child and by such other evidence as the Director may require to establish that the claimant is entitled hereto.

Support of claim.

Amount. 34/1997	<b>36. Amount of funeral Grant</b>	<b>Amount</b>
	Age of deceased not exceeding one year	\$300 or cost of funeral, whichever is less.
	Exceeding one year but not exceeding fifteen years	\$1 300 or cost of funeral whichever is less.
	Exceeding fifteen years	\$2 000 or cost of funeral whichever is less.

F. Survivor's Benefit

- Entitlement. **37.** (1) Survivor's benefit shall consist of \_\_\_\_\_
- (a) Survivor's pension or grant payable to the widow or widower of a deceased insured person.
  - (b) Survivor's dependants pension or grant payable in respect of the dependant children of the deceased insured in accordance with the provisions of paragraph (2); and
  - (c) Orphan's pension or grant payable where there are no surviving parents or step-parents, in accordance with the provisions of paragraph (3).
- (2) Where there is an unmarried child, including an adopted child, step-child or illegitimate child, who at the date of the death of the insured person was living with or was wholly or mainly maintained by the deceased person, survivor's dependants pension shall be payable in respect of such child or children's to the widow or widower, or such other person as the Director shall decide.
- (3) Where there is no surviving parent or step-parent survivor's benefit shall be payable as an orphan's pension or orphan's grant as the case may be, to

such person or persons as the Director may decide provided the condition as to maintenance in paragraph (2) is satisfied.

- (4) A widow or widower, as the case may be, who is
- (a) over forty years of age, shall be awarded a survivor's pension for life or a survivor's grant;
  - (b) under forty years of age and incapable of self-support by reason of invalidity, shall be awarded a survivor's pension for so long as the invalidity continues, or as a survivor's grant. If invalidity ceases and the widow is then over forty years of age, any survivor's pension then in payment shall, subject to the provisions of these Regulations, be payable for life.
  - (c) under forty years of age and has a child or children eligible for survivor's dependants pension under the provisions of sub-regulation (20), shall be awarded a survivor's pension or a survivor's grant:

Provided that if she is awarded a survivor's pension it shall be payable until the eligible child attains the age of fifteen years, or if continuing in full time education, twenty-one years, and if when the said youngest child ceases to be eligible under the provisions of these Regulations the widow or widower is then over forty years of age, the pension shall be payable for life;

- (d) pregnant and under the age of forty years, shall be awarded a survivor's pension or survivor's grant:

Provided that if the award is of survivor's pension its shall be payable for one year unless as a result of the said pregnancy a live child or children is or are born, then the pension shall continue as if the provision of sub-paragraph (c) of this Regulation were satisfied; or

- (e) under the age of forty years, had no children eligible under the provisions of sub-paragraph (c) or was not incapable of self-support by reason of invalidity, shall, subject to the provisions of these Regulations, be awarded a survivor's pension for one year, or a survivor's grant.

(5) A survivor's pension payable to a widow or widower shall cease upon remarriage or the widow or widower or upon cohabitation.

(6) A survivor's benefit payable under paragraphs (2) and (3) shall be payable so long as the child or children continue to reside with or be wholly maintained by the widow or widower, or such other person as the Director shall decide, and such child or children continue to be under the age of fifteen years, or if continuing in full-time education, under the age of eighteen years.

**38.** (1) Subject to these Regulations survivor's benefit as a pension shall be payable \_\_\_\_\_

(a) if the deceased person was, at the time of his or her death, in receipt of age or invalidity pension; or

(b) had paid contributions in respect of five hundred weeks of insurable employment.

**39.** (1) The rate of survivor's pension payable to a widow or widower under the provisions of Regulation 37 (1) (a) shall be two-thirds of the amount of the age or invalidity pension in payment to the deceased insured person at the date of his death.

(2) If the deceased insured person was not in receipt of age or invalidity pension in accordance with paragraph (1), the survivor's pension payable to the widow or widower shall be two-thirds of the age pension earned up to the date of death:

Provided that if the deceased insured person had paid one hundred and fifty weekly contributions but had not paid five hundred weekly contributions the age pension earned shall be deemed to be thirty per cent of his average annual insurable earnings.

(3) Subject to sub-regulation (3A), the rate of survivor's dependants pension payable in respect of a child shall be one-third of the amounts specified in paragraph (1) and (2) and the amount of orphan's pension shall be two-thirds of such amounts.

Conditions to be  
satisfied.  
41/2000

Rate of benefit.  
20/1994  
34/1997  
53/2005

(3A) Where there is no widow or widower, the rate of the pension of the deceased insured person payable in respect of that child shall be two-thirds of the amounts specified in paragraph (1) or (2) and the amount of orphan's pension payable shall be two-thirds of such amounts.

(4) For the purposes of this Regulation the age pension earned up to the date of death shall be the rate of age pension calculated in accordance with Regulation 30 save that for the purposes of this Regulation, paragraph (3) of that Regulation shall be construed as if the words "he attained the age of sixty five years" were substituted by the words "death" occurred".

(5) The amount of survivor's grant payable to a widow or widower shall be two-thirds of the age grant calculated in accordance with paragraphs (2) and (3) of Regulation 32, save that for the words "attained the age of sixty-five years" in paragraph (3) of that Regulation shall be substituted by the word "died".

(6) Subject to sub-regulation (6A), the rate of survivor's dependants pension payable in respect of a child shall be one-third of the amount calculated under the preceding paragraph and if the child is an orphan the amount shall be two-thirds of the said amount.

(6A) Where there is no widow or widower, the amount of the grant of a deceased insured payable in respect of that child shall be two-thirds of the amount specified in paragraphs (5) and (6) and if the child is an orphan the amount shall be two-thirds of the said amounts.

(7) A survivor's pension payable by virtue of these Regulations shall not be less than eighteen dollars a week and in the case of survivor's dependants pension and orphan pension eight dollars and twelve dollars per week respectively.

(8) A survivor's pension payable by virtue of these Regulations shall not exceed one hundred per centum of the pension payment earned at the death of the deceased.

## **PART IV**

### **PAYMENT OF BENEFIT**

**40.** Any benefit may be paid by means of cash, cheque or payable order or pension order or as the Board may direct, either generally or in respect of any benefit or of any beneficiary, and periodical payments shall be made at such

Time and manner of payment of benefit.

intervals as the board may direct, either generally or in respect of any class of such payments or of any beneficiary.

**41.** A beneficiary, and any person to whom benefit is paid on behalf of a beneficiary, shall furnish at such times as the Director may require such certificates and other documents, and such information or facts relating to the receipt of disbursement thereof, as may be specified (either as a condition on which any sum shall be paid or otherwise) by the Director.

**42.** (1) The right to any sum payable by way of benefit shall be extinguished where payment thereof is not obtained within the period of six months from the date on which that sum is receivable in accordance with this Regulation.

(2) In calculating the period of six months for the purposes of paragraph (1) no account shall be taken of \_\_\_

- (a) any period during which the Board had under consideration any representation that a payable order or cheque in respect of the sum has not been received or had been lost, mislaid or stolen;
- (b) any period during which the beneficiary is for the time being unable to act by reason of any mental incapacity, subject to the qualifications that the total period disregarded on account of such inability to act shall not exceed one year; or
- (c) any period during which the determination of any question as to such extinguishment is pending.

(3) For the purpose of this Regulation, a sum payable by way of benefit shall, subject to paragraph (4) be receivable \_\_\_

- (a) in the case of a sum contained in a payable order or cheque \_\_\_
  - (i) if the order is sent through the post, on the date on which it is authenticated for payment; and
  - (ii) in any other case on the date of issue of the order;
- (b) in any other case, the date on which the sum became payable.

Information to be given when obtaining payment.

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

(4) In determining when a sum is receivable under paragraph (3) the following provisions shall apply \_\_\_\_

- (a) if a beneficiary proves that through no fault of his own he did not receive the payable order or cheque or such other form of payment as may be used until a date later than the appropriate receivable date determined in accordance with paragraph (3) the sum shall be receivable \_\_\_\_
  - (i) on the later date; or
  - (ii) on the date which is six months after the said appropriate receivable date, whichever is earlier;
- (b) if a beneficiary proves that through no fault of his own he has not received the payable order or cheque or such other form of payment as may be used, the sum shall be receivable \_\_\_\_
  - (i) on the date determined in accordance with paragraph (3) on the basis of the issue of any further payable order or cheque in respect of that sum; or
  - (ii) on the date which is six months after the receivable date determined in accordance with paragraph (3) on the same basis, whichever is earlier.

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

(6) A person who would be entitled to benefit but for the operation of this Regulation shall be treated as if he was entitled thereto for purpose of any rights or obligations under the Ordinance or any Regulations made thereunder (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit.

**43.**(1) A beneficiary shall inform the Director of any change in his circumstances affecting his continued right to receive benefit or the rate at which the benefit is payable within one week of the occurrence of the change.

Beneficiaries to notify changes of circumstances.

(2) The Board may require any beneficiary to furnish from time to time documentary evidence that he is alive and that the conditions governing the grant of benefit continue to be satisfied.

**44.** (1) Where a claimant or beneficiary is unable for the time being unable to act or is a child, the Board may appoint some other person to exercise on behalf of such claimant or beneficiary any right or power which such claimant or beneficiary may be entitled to exercise under the Ordinance or any Regulations made thereunder.

Persons unable to  
act.  
20/1994

(2) The following provisions shall apply to every appointment made by the Board under this Regulation of a person to act on behalf of a claimant or beneficiary \_\_

- (a) the Board may at any time revoke the appointment;
- (b) the person appointed may resign on giving the Board one month's notice of his intention to do so;
- (c) the appointment shall terminate on the day on which the Board receives notice that a Committee of the estate of the beneficiary or claimant has been appointed; and
- (d) the Board shall not appoint a person under the age of eighteen years to act under this Regulation.

(3) A person appointed under this Regulation to act for a claimant or beneficiary may exercise on behalf of such claimant or beneficiary any right or power which such claimant or beneficiary may be entitled to exercise by or under the Ordinance or Regulations made thereunder and may receive and deal with any sum payable by way of benefit on behalf of such claimant or beneficiary.

(4) Anything required to be done under or by the Ordinance or Regulations made thereunder to a claimant or beneficiary may be done as respects a claimant or beneficiary who is unable to act or is a child to the person appointed under this Regulation to act.

(5) The receipt of a person appointed under this Regulation to act for a claimant or beneficiary shall be a good discharge to the Board and the Fund for any sums paid to such person on behalf of the claimant or beneficiary.

**45.** (1) On the death of a claimant or beneficiary, the Board may appoint such person as it think fits to proceed with or to make a claim for benefit in the name of such claimant or beneficiary. Payment on death.

(2) Subject to paragraph (7), any sum payable by way of benefit which is payable under an award on a claim proceeded with or made under paragraph (1) may be paid or distributed to or amongst persons claiming as personal representatives, legatees, next-of-kin or creditors of the deceased, and the provisions of Regulation 43 shall apply to any such payment or distribution.

(3) The receipt by any such person who has attained the age of eighteen years shall be a good discharge to the Board and the Fund for any sum paid in accordance with this Regulation.

(4) Where the Board is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of eighteen years, the Board may obtain a good discharge by paying the sum or part thereof to a person over that age (who need not be a person specified in this Regulation) who satisfies the Board that he will apply the sum so paid for the benefit of the person under the age of eighteen years.

(5) Subject to paragraph (7), any sum payable by way of benefit in respect of a deceased person, payment of which he had not obtained at the date of his death, may, unless the right thereto was already extinguished at that date, be paid, or disbursed amongst such persons as are mentioned in paragraph (2), and the provisions of Regulation 42 and of paragraph (7) shall apply to any payment or distribution:

Provided that, for the purpose of Regulation 42 (1), the period of six months shall be calculated from the date on which it was receivable by the deceased, and for these purposes the reference in Regulation 42 (3) (b) to the date on which the sum became payable shall be construed as a reference with paragraph (6).

(6) Paragraphs (2) and (5) shall not apply in any case unless written application for the payment of any such sum is made to the Board within six months from the date of the deceased's death, or within such longer period as the Board may allow in any particular case.

(7) The Board may dispense with strict proof of the title of any person claiming in accordance with this Regulation.

**PART V**

**MISCELLANEOUS**

**46.** (1) Where a person is entitled to two or more benefits under the Ordinance at the same time, only one benefit shall be payable to such person.

(2) The benefit payable under paragraph (1) shall be that benefit which is payable at the higher rate but if this benefit ceases to be payable then nothing shall prevent the award for reinstatement of another benefit to which such person is entitled under the Ordinance.

(3) Notwithstanding the provisions of this regulation, a maternity benefit may be paid with a survivor's benefit, but the total amount of the two benefits shall not exceed sixty per centum of the person's insurable earnings; and a sickness benefit may be paid with a survivor's benefit, but the total amount of the two benefits shall not exceed one hundred per centum of the insured person's insurable earnings.

(4) Any benefit may be duplicated in full with funeral grant.

**47.** (1) Except as hereinafter provided, a beneficiary shall be disqualified from receiving any benefit for any period during which that person is absent from the Territory.

(2) A beneficiary shall not be disqualified from receiving sickness or maternity benefit by reason of being temporarily absent from the Territory for the specific purpose of being treated for any illness which commenced before he left the Territory for such period as the Director may allow, having regard to the particular circumstances of the case.

(3) A beneficiary shall not be disqualified from receiving age or survivor's benefit by reason of being absent from the Territory; but such a person shall furnish to the Director evidence of his continuing entitlement to the benefit at such intervals as the Director may require.

(4) A beneficiary shall not be disqualified from receiving invalidity benefit by reason of being absent from the Territory for such period as the Director may allow, having regard to the particular circumstances of the case.

Entitlement to more than one benefit.  
20/1994

Beneficiaries abroad.

**48.** Any benefit which is paid to a beneficiary by virtue of Regulation 47 shall be paid in the Territory to such representative acting for and on behalf of the absent beneficiary as may be approved by the Director.

Payment of benefit to beneficiaries abroad.

**49.** (1) If a person who is claiming or who has been awarded any benefit fails to furnish any information required of him, or to attend when required to do so for medical or other examination, by virtue of these Regulations of the Social Security (Decisions and Appeals) Regulations, consideration of that claim or of any question arising in relation thereto may be deferred until the information has been furnished or the report of the examination has been received, and the determining authority may direct that any benefit payable in consequence of its award or decision shall be forfeited for the period of such failure.

Deferment of claims and forfeiture.

(2) If, in respect of any incapacity, or expected or actual confinement, a person awarded sickness, maternity or invalidity benefit \_

- (a) behaves without good reason in a manner calculated to retard his or her recovery;
- (b) is absent from the Territory without leaving word where he or she may be found;
- (c) undertakes work for which remuneration is or would ordinarily be payable;
- (d) fails to comply with a notice given by the Director which requires attendance for and submission to medical or other examination;
- (e) fails without good cause to answer any inquiries made by an officer of the Board designed to ascertain the person's continuing entitlement to benefit; or
- (f) fails to comply with the requirements of Regulation 41.

he shall be liable to forfeit that benefit for such period not exceeding six weeks as the Director may determine.

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

Persons undergoing imprisonment or detention.

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

**51.** Where the Board is satisfied that an insured person is in a health care facility, and that the insured person is being maintained or cared for by the Government, the Board may authorize the payment of the total amount of the benefit or any part thereof, payable to such person, to be paid to the Accountant General.

Institutionalised  
persons.  
20/1994

Power to appoint  
medical referees.

**52.** (1) For the purposes of these Regulations the Board may appoint a medical referee from among the registered medical practitioners in the Territory.

(2) The medical referee shall hold office for such time as the Board determines.

(3) A medical referee shall, in each case record his decision in writing in a form approved by the Board.

(4) A person shall not act as a medical referee in a case referred to him if

—

(a) a claimant, in a case referred to him, is his spouse, parent or child or

(b) he has previously been involved in the case as a medical practitioner who particularly attended the claimant.

Increase of  
amount of  
pension awarded.  
53./2005

**53.** (1) The amount of pension awarded to a person in the years 1983 to 2004 shall be increased by an amount equivalent to ten percent with effect from 1<sup>st</sup> January 2005.

(2) With effect from 1<sup>st</sup> January 2006, the amount of pension awarded to a person in any one year shall be increased using a Consumer Price Index (CPI) as the index.

---

**SCHEDULE**

Medical Practitioners

rr. 11, 17, 19, 23

1. In this Schedule “medical practitioner” means a medical practitioner who is nominated by the Board for the purpose of carrying out the requirements of this Regulation as regards medical certification.
2. A person nominated as a medical practitioner under clause (1) shall not be entitled to issue a medical certificate in respect of himself, his wife or husband as the case may be.

Medical Certificates

3. Books of medical certificates shall be supplied by the Board to each medical practitioner nominated in accordance with this Schedule free of charge but the Director may accept such other form of certificate as he thinks fit.
4. When a medical certificate has been issued in respect of an insured person following his examination by a medical practitioner no further medical certificate may be issued on the basis of that examination.
5. Notwithstanding Clause 4 of this Schedule where a medical certificate is lost, defaced or mislaid a new certificate may be issued by the medical practitioner but it must be clearly marked “Duplicate”.

Sickness or Invalidity

6. Every certificate of sickness or invalidity shall be written in ink or other indelible substance, shall bear the signature of the certifying medical practitioner and shall contain the following particulars:\_\_\_
  - (a) the insured person’s name and address;
  - (b) the date on which the medical examination took place;

(c) concise statement of the nature of the disease of disablement which, in the medical practitioner's opinion, renders the insured person incapable of work; and

(d) the date on which each certificate is given.

7. The statement of the incapacitating disease or disablement shall specify the cause of incapacity as precisely as the practitioner's knowledge of the insured person's condition at the time of the examination permits:

Provided that, if in the practitioner's opinion a disclosure of the insured person of the precise clause would be prejudicial to his well-being, the certificate may contain a less precise statement.

8. (1) In any case in which, in the opinion of the medical practitioner the insured person will become fit to resume work and a day not later than seven days after the date of the medical examination, the certificate shall specify such day.

(2) In any other case, the certificate shall cover a specified number of days or weeks from and including the date of the medical examination, the certificate shall specify such day.

#### Maternity Benefit

9. Every certificate of confinement or expected confinement shall be written in ink or other indelible substance and shall be signed by a medical practitioner or a midwife.

10. Every certificate of confinement or expected confinement shall contain the following particulars: \_

(a) the woman's name and address;

(b) in the case of a certificate of expected confinement, the week in which it is to be expected that the woman will be confined and the date of the examination on which the certificate is based; and

(c) the date of which the certificate is given.

---