



MONTSERRAT

CHAPTER 18.09

SOCIAL SECURITY ACT Subsidiary and Related Legislation

Revised Edition

showing the law as at 1 January 2008

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

This edition contains a consolidation of the following laws—

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CHAPTER 18.09

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CHAPTER 18.09

SOCIAL SECURITY ACT

(Acts 26 of 1985, 10 of 1987, 7 of 1995, 6 of 1997 and 8 of 1997)

AN ACT TO ESTABLISH A SYSTEM OF SOCIAL SECURITY IN MONTSEERRAT BY PROVIDING PECUNIARY BENEFITS IN PRESCRIBED CIRCUMSTANCES TO PRESCRIBED BENEFICIARIES AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

Commencement

[1 July 1986]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Social Security Act.

Interpretation

2. (1) In this Act—

“**appointed day**” shall have the meaning ascribed to that phrase by section 51;

“**beneficiary**” means a person entitled to benefits;

“**benefit**” means any pecuniary benefits receivable under this Act;

“**Board**” means the Social Security Board established by section 4;

“**claimant**” means a person who has claimed benefit;

“**contribution period**” means the prescribed period in respect of which the contribution is payable;

“**contribution week**” means a period of seven days commencing from midnight between Sunday and Monday;

“**contributions**” means a contribution to the Fund payable under this Act;

“**Deduction Card**” means the card issued by the Board for the purpose of the payment of contributions by means of recording thereon the amounts of contributions deducted from the employees and the sum liable to be paid in respect of such employee by the employer;

“**Director**” means the Director of the Fund appointed under the provisions of section 7;

“**Employee**” or “**employed person**” means a person who is insured by virtue of subsection (1) of section 18;

“**the Fund**” means the Social Security Fund established by this Act;

“**incapable of work**” means incapable of work by reasons of a specific disease or bodily or mental disablement or deemed in accordance with regulations made under this Act to be so incapable;

“**Inspector**” means a person appointed as such under the provisions of section 12;

“**insurable employment**” means subject to subsection (3) of section 18 any employment specified in the Second Schedule;

“**insured**” means insured under this Act;

“**Investment Committee**” means the Social Security Fund Investment Committee of the Board established by subsection (1) of section 13;

“**Minister**” means the Minister responsible for the subject of Social Security;

“**prescribed**” means prescribed by regulations made under this Act;

“**unpaid apprentice**” means an apprentice who, under this contract of apprenticeship, receives no pecuniary remuneration;

“**vehicle**” includes any ship, vessel or aircraft;

“**wages**” includes salary or such other pecuniary remuneration as may be prescribed.

(2) For the purposes of this Act, a person shall be deemed to be over or under any age therein mentioned according to whether he has or has not attained that age and a person shall be deemed to be between two ages therein mentioned if he has attained the first mentioned age but has not attained the second mentioned age.

PART II

ADMINISTRATION AND FINANCE

Establishment of Social Security Fund

3. (1) There is hereby established a fund to be called the Social Security Fund into which shall be paid—

(a) all contributions;

(b) all rent, interest, investment or other income derived from the assets of the Fund;

- (c) all sums recovered under this Act as fines, fees, penalties or costs;
 - (d) all sums properly accruing to the Fund under this Act including any repayment of benefit; and
 - (e) such other sums as may be provided by the Legislative Council for the purposes of this Act or as may be lawfully received and accepted by the Board on behalf of the Fund.
- (2) There shall be paid out of the Fund—
- (a) all benefits;
 - (b) any refunds of contributions;
 - (c) all expenses properly incurred in the administration of this Act.

Establishment of Social Security Board

4. (1) There is hereby established a Board to be called the Social Security Board in which the Fund shall be vested and which shall, subject to the provisions of this Act, be responsible for administering the Fund.

(2) The Board shall be constituted and its proceedings conducted in accordance with the provisions of the First Schedule.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of suing and being sued and subject to the provisions of this Act, or purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(4) The Board shall have a Head Office and the service on the Board of any notice, order or other document shall be executed by delivering the same or by sending the same by post, addressed to the Director at the Head Office.

(5) The seal of the Board shall be kept in the custody of the Director and shall not be affixed to any instrument except by the authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signatures of the Director and such other person as the Board may appoint for the purpose.

(6) The Board 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 concerning the operation of this Act and the performance of the Board's functions under it.

(7) The Board shall render annual reports to the Minister, and the Minister shall, at the meeting next following after the receipt of any such report, lay a copy thereof before the Legislative Council:

Provided that the first report to be rendered under this subsection may cover such period ending not later than two years after the appointed day as the Board with the approval of the Minister, may determine.

Committees of the Board

5. (1) Subject to the provisions of this Act, the Board may appoint such committees of the Board as it may think fit:

Provided that any such committee shall include not less than two members of the Board, and may include persons who are not members of the Board.

(2) Subject to the provisions of this Act, the constitution and functions of any committee of the Board shall be determined by the Board.

Remuneration of the Board and its Committees

6. There shall be paid out of the Fund—

- (a)* to the Chairman, Deputy Chairman and each member of the Board in respect of his office as such, remuneration and allowances (if any) as the Governor in Council may determine; and
- (b)* to any person co-opted to a meeting of the Board, and to any person, not being a member of the Board, who serves on a committee of the Board, such remuneration and allowances as the Minister may determine upon a recommendation by the Board.

Director of the Fund

7. (1) The Governor in Council shall appoint a fit and proper person to be the Director of the Fund on such terms and conditions as he may think fit.

(2) The Director shall, subject to the provisions of this Act, be responsible for the direction of the staff of the Board and for the management of the Fund and in particular for—

- (a)* the collection of contributions payable under this Act;
- (b)* the payment of benefit under this Act, and of all expenditure necessary for the administration of the Fund;
- (c)* the investment, where not inconsistent with this or any other Act or any specific direction by the Minister, of surplus moneys in the Fund; and
- (d)* accounting for all moneys collected, paid or invested under this Act.

Delegation by the Director

8. (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 Act except this power of delegation, so that the delegated function may be performed by such officer or employee with respect to the matter or class of matters specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, and a delegation shall not prevent the performing of any function by the Director.

Deputy Director of the Fund

9. (1) The Governor in Council shall appoint a fit and proper person to be the Deputy Director of the Fund on such terms and conditions as he may think fit.

(2) On the occurrence of a vacancy in the Office of Director (whether caused by death, resignation or otherwise) and in case of illness, absence or temporary incapacity of the Director from whatever cause arising, and so long as such vacancy, illness, absence or incapacity continues, the Deputy Director, subject to the approval of the Minister, shall have and may exercise all the powers, duties, and functions of the Director.

(3) The fact that the Deputy Director has exercised any power, duty or function as aforesaid shall be sufficient evidence of his authority so to do.

Staff of the Board

10. The Director may from time to time, acting upon the advice of the Board, appoint persons to be officers or employees of the Board.

Terms and Conditions of employment

11. The terms and conditions of employment of officers and employees of the Board (other than those of the Director and the Deputy Director) shall be as determined from time to time by the Board.

Appointment and powers of Inspectors

12. (1) The Board may designate such officers or employees in its service as it thinks fit to be Inspectors for the purposes of this Act.

(2) Every Inspector shall be furnished with a certificate of his appointment and on applying for admission to any premises or place for the purpose of this Act shall produce such certificate.

(3) The premises or places liable to inspection under this section shall include any premises or place where an Inspector has reasonable

cause to believe any persons are employed whether or not such premises or place is used exclusively for residential purposes.

(4) An Inspector shall for the purposes of this Act have power to enter at all reasonable times any premises or place liable to inspection under this Act and there make any examination or enquiry necessary for the purposes of this Act, to require the production of any documents relating to contributions or liability to contribute to the Fund, for inspection by him on the said premises or place, and to copy such documents or make extracts therefrom.

(5) The occupier of any premises or place liable to inspection under this section, any person who is or has been employing any person, and the servants or agents of any such occupier or employer shall furnish to an Inspector all such information and shall produce for his inspection all such documents as the Inspector may reasonably require.

(6) Any person who without reasonable excuse obstructs, impedes, hinders, molests, or refuses admission to an Inspector in the exercise of any of his powers under this section or refuses or neglects to furnish any information or produce any document when required to do so under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$1,000.

Establishment of Social Security Fund Investment Committee

13. (1) There is hereby established a committee to be called the Social Security Fund Investment Committee.

(2) The Investment Committee shall consist of—

- (a) the Chairman of the Board, who shall be the Chairman of the Committee;
- (b) one person nominated by the Minister of Finance;
- (c) a member of the Board nominated by the Minister;
- (d) a member of the board who is a representative of the employers nominated by the Minister; (*Inserted by Act 10 of 1987*)
- (e) the Director.

(3) The Investment Committee shall meet as often as necessary, may regulate the procedure of its meetings, and shall be able to act notwithstanding any vacancy among its members. Three members of the Committee including the Chairman shall constitute a quorum.

(4) The Investment Committee shall give general or specific directions from time to time on the investment of monies in the Fund which are surplus to current needs and the Director shall give the Investment Committee any information necessary for the proper discharge of its functions.

(5) In the absence of the Director, the Deputy Director shall, subject to the approval of the Minister, attend every meeting and in such case the Deputy Director shall be deemed to be a member of the Committee for the purpose of that meeting.

(6) The Investment Committee shall in addition to its other functions meet at such time or times as the Minister may request, to give such consideration and advice on financial matters relating to the operation of this Act as the Minister may require.

Investment of moneys

14. (1) Moneys in the Fund may, subject to the approval of the Governor in Council, be lawfully expended by the Board in the purchase of any land or building deemed by the Board to be necessary for the proper administration of this Act.

(2) The investment of moneys in the Fund not otherwise required shall be made by the Director in accordance with the directions of the Investment Committee.

(3) The Investment Committee shall submit a report of its work to the Board quarterly and at such other times as the Board may direct.

Temporary insufficiency of assets

15. (1) Any temporary insufficiency in the assets of the Fund to meet the liabilities of the Fund may be advanced out of the Consolidated Fund upon due resolution by Legislative Council under the Finance (Administration) Act.

(2) Subject to the provisions of this Act, any sums advanced under subsection (1) shall be repaid to the Consolidated Fund as soon as may be practicable.

Accounts and audit of the Board

16. (1) The Board shall cause to be kept proper books of account and other books and records in relation thereto, in which shall be recorded all financial transactions of the Fund.

(2) The accounts of the Fund shall be prepared in such form as may be prescribed by regulations. Such regulations shall provide for the form and conduct of the accounts of the Fund and, in particular, for the establishment and maintenance of different branches of such accounts, and the establishment and maintenance within the Fund of reserves, and an auditor appointed by the Minister shall examine every such account.

(3) The Board shall—

(a) submit to the Minister every account certified by the auditor appointed in accordance with subsection (2), within one month of the date of such certificate; and

- (b) submit annually to the Minister a statement of the securities in which moneys forming part of the Fund are for the time being invested.

(4) The Minister shall, as soon as possible after receiving any account or statement in accordance with subsection (3), lay a copy thereof before the Legislative Council.

Review of operations of the Fund

17. (1) The Board shall with the assistance of an actuary approved by the Minister review the operations of the Fund during the period ending with the thirty-first day of December, 1989 and thereafter during the period ending with the thirty-first day of December, in every third year, and on 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 other liabilities under this Act:

Provided that the Minister may at any time direct that the period to be covered by any review and made under this subsection shall be reduced and that the making of that and subsequent reviews shall be accelerated accordingly.

(2) The Minister shall, as soon as possible after receiving any report in accordance with subsection (1), lay a copy thereof before the Legislative Council.

PART III

PERSONS AND CONTRIBUTIONS

Persons to be insured

18. (1) Subject to the provisions of this Act every person who—

- (a) on the day preceding the appointed day is under 60 years of age and is a member of the National Provident Fund under the provisions of the National Provident Fund Act; or
- (b) on or after the appointed day, being over the age of sixteen years and under the aged of 60 years, is gainfully occupied in an insurable employment; shall be insured under this Act in respect of the several contingencies in relation to which benefits are provided under subsection (1) of section 26 and there shall be payable to or in respect of any such person, in the prescribed circumstances, the benefit payable by virtue of the said subsection.

(2) Regulations may provide for the insurance under this Act of self-employed persons, of unpaid apprentices, or persons under sixteen years of

age and of persons aged 60 years and upwards in respect of any of the several contingencies in relation to which benefits are provided; and any such regulations may prescribe such modification of the provisions of this Act or make such other provisions as are necessary for the purpose of giving effect to this subsection.

(3) Regulations may provide for modifying the application of subsection (1) in relation to cases in which it appears to the Minister desirable to do so because of the nature of a person's employment or otherwise, and such regulations may in particular provide—

- (a) for treatment of such employment as not being insurable employment, or for disregarding—
 - (i) employment which is of a casual or subsidiary nature or in which the person concerned is engaged only to an inconsiderable extent;
 - (ii) employment in the service of a person employed by, such international organisations, or Governments other than that of Montserrat as may be prescribed;
- (b) for treating as being insurable employment such employment outside Montserrat in continuation of insurable employment in Montserrat as may be prescribed;
- (c) for treating a person's employment as continuing during periods of holiday or incapacity for work or in such other circumstances as may be prescribed.

Voluntary Insurance

19. (1) Any insured person who is not liable to pay contributions shall be entitled on making application to the Director within such time and in such manner as may be prescribed to receive a certificate of voluntary insurance if he satisfies the prescribed conditions.

(2) An insured person holding a certificate of voluntary insurance may pay within such time and in such manner as may be prescribed the contributions at the prescribed rate for any contribution period for which he is not liable to pay a contribution as an insured person, and regulations may prescribe the circumstances in which such a person may cease to be entitled to contribute in default of payment of contributions within the prescribed time.

Source of Funds

20. (1) For the purposes of this Act contributions shall, subject to the provisions of this Act, be payable both by insured persons and by their employers, if any.

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

Contributions by employed persons and employers

21. (1) Except where regulations otherwise provide, an employer liable to pay a contribution 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 such person any contribution payable by such person for the same contribution period, and for the purpose of this Act contributions so paid by an employer shall be deemed to be contributions paid by such person.

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

(3) An employer shall be entitled, subject to and in accordance with any regulations made in that regard to recover from the pecuniary remuneration of a person employed by him the amount of any contribution paid or to be paid by him on behalf of such person and, notwithstanding anything in any other enactment, such regulations may authorise such recovery to be made by deduction from the wages of such person.

Exemption from liability for and crediting of contributions

22. Regulations may provide—

- (a)* for exempting insured persons and their employers from liability to pay contributions for such periods as may be prescribed; and
- (b)* for crediting contributions to insured persons in respect of such periods (whether before or after the appointed day) and for such purposes as may be prescribed.

Employment by more than one employer

23. Where an employed person is employed successively or concurrently in a contribution week or part of a contribution week by more than one employer, such employer shall be liable to pay to the Fund contributions with respect to the wages paid by him to that person.

Persons to be treated as employers

24. In relation to persons who—

- (a)* are employed by more than one employer in any contribution period;
- (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 Act a prescribed person shall be treated as the employer; and such regulations may further provide for adjusting the rights between themselves

or any person so prescribed as employer, the actual employer and the person employed.

Regulations of various matters related to contributions

25. Regulations may provide—

- (a) for the registration of employed persons and employers;
- (b) for the payment and collection of contributions;
- (c) for the maintenance by employers records of the payment of contributions;
- (d) for treating, for the purpose of any right to benefit, contributions paid after the due date as paid on such date, or on such later date as may be prescribed, or as not having been paid;
- (e) for treating as paid for the purpose of any right to benefit, contributions payable by an employer on behalf of an insured person but not paid, where the failure to pay is shown not to have been the result of negligence on the part of such person;
- (f) for treating contributions paid in respect of the wrong category of person, or at the wrong rate, as having been properly paid;
- (g) for the return of contributions paid in error; and
- (h) for any other matters incidental to the payment and collection of contributions under this Act as the Governor in Council after consultation with the Board may think fit.

PART IV

BENEFITS

Description of benefits

26. (1) Benefits payable under this Act shall be of the following kinds, namely—

- (a) sickness benefit, that is to say, periodical payments to an insured person who is rendered incapable of work otherwise than as a result of employment injury;
- (b) maternity benefit, that is to say, a payment or periodical payments to an insured woman in the case of her confinement;
- (c) invalidity benefit, that is to say, a payment or periodical payments to an insured person who is rendered permanently

incapable of work otherwise than as a result of employment injury;

- (d) survivor's benefit, that is to say, a payment or periodical payments made in respect of an insured person who dies otherwise than as a result of employment injury;
- (e) funeral grant, that is to say, a payment on the death of an insured person, or the spouse of an insured person towards the costs of and incidental to burial;
- (f) age benefit, that is to say, a payment to an insured person who has reached 60 years of age.

(2) In this section, the expression “**employment injury**” means such injury as attracts compensation under the Workmen's Compensation Act.

Employment Injury Benefit

27. (1) Regulations may provide that in addition to the kinds of benefit specified in section 26, there shall be payable Employment Injury Benefits which shall consist of one or more of the following benefits—

- (a) injury benefit, that is to say, in addition to such free medical care and attention as may be prescribed, periodical payments to an insured person who suffers personal injury by an accident arising out of and in the course of insurable employment or develops any prescribed 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, periodical payments or a lump sum grant to an insured person who as a result of such injury or disease as aforesaid sustains loss of faculty;
- (c) constant attendance allowance, that is to say, an additional allowance payable to persons in receipt of disablement benefit based on 100% disablement, at a rate of 50% of the benefit for such period as may be prescribed;
- (d) death benefit, that is to say, payment or periodical payments in respect of an insured person who dies as a result of such injury or disease as aforesaid;
- (e) funeral grant, that is to say, a grant in respect of an insured person who dies as a result of such injury or disease as aforesaid.

(Amended by Act 6 of 1997)

(2) From and after the day when regulations under subsection (1) come into operation, an insured person who suffers any such personal injury or develops any such disease as entitles him to Employment Injury

Benefit shall not in relation to such injury or disease be regarded as a workman for the purpose of the Workmen's Compensation Act.

(3) For the purpose of this Act—

- (a) an accident arising in the course of the employment of any employee shall be deemed in the absence of evidence to the contrary, to have arisen out of that employment;
- (b) an accident shall be deemed to arise out of or in the course of the employment of an employee 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—
 - (i) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and
 - (ii) the act is done for the purpose of or in connection with the employer's trade or business;
- (c) an accident happening while the employee is with the expressed or implied permission of his employer travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—
 - (i) the accident would have been deemed so to have arisen had he been under such an obligation; and
 - (ii) at the time of the accident, the vehicle—
 - (A) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with such employer and;
 - (B) is not being operated in the ordinary course of public transport service;
- (d) an accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business 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 succor or protect persons who are or are thought to be injured or imperilled, or minimise serious damage to property.

Rate of and conditions for receipt of benefits

28. Regulations shall provide for—

- (a) the rates or amounts of benefits and variation of such rates or benefits in different or special circumstances;
- (b) the conditions subject to which and the periods for which benefits may be granted;
- (c) the date as from which benefit is to be provided.

Meaning of “marriage” extended

29. Where it is a condition of entitlement to benefit that a person be the wife or widow of an insured person—

- (a) (i) an insured person may at any time after the appointed day apply to the Director for registration for a beneficiary under the relevant provisions of this Act;
- (ii) in the case of an insured man the registered beneficiary shall be a woman with whom he lives as husband;
- (iii) in the case of an insured woman, the registered beneficiary shall be a man with whom she lives as wife;
- (iv) notwithstanding the fact that a valid marriage subsists between an insured person and another woman or man, as the case may be, registration under this section of a person as a beneficiary shall automatically exclude all other persons from being beneficiaries; and any reference to “husband” or “wife” shall be construed as referring to such registered beneficiary only;
- (v) the registration of any person as beneficiary under this section may be cancelled at the request in writing of the insured person;
- (b) where no registration of a person as a beneficiary has been made under this section the Director may nevertheless treat a single woman or widow who was living with a single man or widower at the time of his death or a single man or widower who was living with a single woman or widow at the time of her death as if she or he were in law respectively the widow or widower of the deceased if he is satisfied that in all the circumstances she or he ought to be so treated;
- (c) where the question of marriage or re-marriage or the date of marriage or re-marriage arises in regard to title to benefit, the Director shall in the absence of the subsistence of a lawful marriage decide whether or not the persons concerned should be treated as if they were married or had re-married as the case may be, and if so from what date, and in determining

such question the Director shall have regard to the provisions of paragraphs (a) and (b) of this subsection;

- (d) registration under paragraph (a) or a determination by the Director under paragraph (b) or (c) shall, unless the context otherwise requires, have the effect of extending, as regards title to benefit, the meaning of the word “marriage” to include the association of a woman with a man or a man with a woman as aforesaid; and the words “wife”, “husband”, “widow”, “widower” and “spouse” shall be construed accordingly wherever they occur in this Act or any regulations made hereunder.

Time and manner of making claim

30. (1) It shall be a condition of a person’s right to benefit—

- (a) that within the prescribed time, he makes a claim therefor to the Director on the 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 for the purpose of determining the right to benefit as the Director may require, and for that purpose attends such office or place as the Director may appoint.

(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 entitlement to any benefit.

Time and manner of paying benefit

31. 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 regulation shall provide for extending the time within which the claim is to be made in cases where good cause is shown for delay;
- (b) for the prevention of the receipt of double benefits and the adjustment of benefits in special circumstances;
- (c) as to 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 determination of benefit, or changes in the rate of benefit, so that, except in the case of sickness benefit payments shall not be made in respect of any period shorter than a contribution week or at different rates for different parts of a contribution week;

- (e) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period;
- (f) for disqualifying a person for receiving sickness benefit, or such other benefit as may be prescribed for such period as may be prescribed if that person—
 - (i) has become incapable of work through his own misconduct;
 - (ii) fails without good cause to attend for or submit to such medical examination or treatment as may be required by regulations; or
 - (iii) does any work as an employed or self-employed person;
- (g) for suspending payment of benefit to or in respect of any person during any period when he—
 - (i) is absent from Montserrat; or
 - (ii) is undergoing imprisonment or detention in legal custody,and for specifying the circumstances and manner in which payment of the whole or any part of the benefit may instead of being suspended be made during any such period to any person nominated by the beneficiary, or for the maintenance of any person whom the Director is satisfied is a dependent of the beneficiary;
- (h) for enabling a person to be appointed to exercise on behalf of any other person who may be unable for the time being to act, any right or power which that other person may be entitled to exercise under this Act and for authorising a person so appointed to receive and deal with any sum payable by way of benefit to that other person;
- (i) in connection with the death of any person for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment to or among persons claiming as his personal representatives, legatees, next of kin, creditors or otherwise, and for dispensing with strict proof of title of persons so claiming; and
- (j) for such other matters as may be necessary for the proper administration of benefits, including the respective obligations of claimants, beneficiaries, and employers.

Appointment of medical officers, referees and boards

32. (1) Regulations may provide for the appointment of medical referees and other professional persons to assist the Board or the Director in the performance of their respective duties under this Act, and for the establishment of one or more medical boards for the purposes of this Act.

(2) There shall be paid out of the Fund to any medical officer, medical referee or professional person appointed under regulations, made under subsection (1) hereof and to any member of a medical board so established, such salary or other remuneration as the board with the prior approval of the Minister may so determine and such expenses incurred in connection with the work of such officer, referee person or member as may be determined.

Repayment of benefit improperly received

33. (1) If it is found that any person by reason of the non-disclosure or misrepresentation by him of a material fact (whether such 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 way of benefit, that sum may be recovered under the provisions of this Act without prejudice to any other remedy by way of deduction from any payment of benefit to which he may thereafter become entitled.

Benefit to be inalienable

34. Every assignment of or charge on any benefit and every agreement to assign or charge any 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 creditors of such beneficiary.

PART V

ADJUDICATION AND LEGAL PROCEEDINGS

Determination of claims and questions

35. (1) Regulations may provide for the determination by the Board, by the Director, or by a person or tribunal appointed or constituted under such regulations, of any question arising out of or in connection with this Act including any claim to benefit, and subject to the provisions of such regulations any determination so made of 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 include provision—

- (a) as to the procedure to be followed, the form of any document used in connection with the proceedings, the rules of evidence to apply, and the circumstances in which any official record or certificate may 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) giving power to summon persons to attend and give evidence or produce documents and authorising the administration of oaths to witnesses;
- (d) as to the representation of persons at the hearing of any case by another person whether having professional qualifications or not; and
- (e) that except in so far as it may be applied by such regulations the Arbitration Act shall not apply to any proceedings under this section.

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

- (a) the reference to the High Court of any question of law in connection with the determination of any matter;
- (b) a right of appeal to the High Court from any decision based on any such question of law, and provision shall be made by Rules of Court regulating references and appeals to the High Court under this subsection and limiting the time within which appeals may be brought thereunder.

(4) Notwithstanding anything in any other enactment the decision of the High Court in a reference or appeal under subsection (3) shall be final, and the Court may order the Board to pay the costs of any person whether or not the decision is in favour of the Board and whether or not the Board appears on such reference or appeal.

Interim payments, arrears and repayments

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

- (a) pending the determination under this Act (whether in the first instance or on appeal or review) of any claim for benefit or of any question affecting the right of any person to benefit or to the receipt thereof; or
- (b) out of the revision, appeal or review of any decision of any such claim or question.

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

- (a) for the suspension of 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 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 benefit in respect of that child for that period and for reducing or withholding accordingly any arrears payable for that period by virtue of that subsequent decision.

Remuneration of persons appointed under section 35

37. There shall be paid out of the Fund to any person appointed under the provisions of section 35(1) and to every member of any tribunal constituted under that subsection such salary or other remuneration as the Board with the approval of the Minister may determine and such expenses incurred in connection with the work of such person or member as may be so determined.

Offences and penalties

38. (1) Any person who fails to pay at or within the time prescribed for the purpose of any contribution which he is liable under this Act to pay shall for each such failure be liable on summary conviction to a fine not exceeding \$500 and in default of payment of such fine to imprisonment for a term not exceeding six months.

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contributions of the employer in respect of any person from the wages or other remuneration of such person shall be liable on summary conviction to a fine not exceeding \$500 and in default of payment of such fine to imprisonment for a term not exceeding six months.

(3) Any person who for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person or for any other purpose connected with this Act—

- (a) knowingly makes any false statement or false representation;
or
- (b) produces or furnishes, or causes or permits to be produced or furnished any document or information which he knows to be false in a material particular shall be liable on summary conviction to a fine not exceeding \$500 or imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

General provisions as to prosecution

39. (1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Board or by any officer of the Board authorised in that behalf by special or general direction of the Board.

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

(3) In any proceedings for an offence under this Act the wife or husband of the accused shall be competent to give evidence against the accused:

Provided that the wife or husband of an accused person shall not be compelled to give evidence or in giving evidence to disclose any communication made to her or him while married to the accused.

(4) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any negligence on the part of any director, manager, secretary or other officer of the body corporate, such officer as well as that body shall be deemed to be guilty of that offence and shall be liable to be proceeded against and penalised accordingly.

Recovery of contributions on prosecution

40. (1) Whenever a person is convicted of an offence under section 42(1) of failing to pay a contribution he shall be liable to pay to the Fund a sum equal to the amount which he failed to pay in addition to any other penalty which the court may impose.

(2) On any such conviction as is mentioned in subsection (1), if notice of intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the person concerned to pay other contributions during the two years preceding the date of the offence, and on proof of such failure the person concerned shall be liable to pay to the Fund a sum equal to the total of all the contributions which he is so proved to have failed to pay.

(3) Any sum ordered to be paid to the Fund under this section shall be recoverable as if it were a fine imposed by the Magistrate's Court.

(4) Any sum paid by an employer under this section shall be treated as a payment in satisfaction of the unpaid contributions and any part of

such sum which represents an employee's contribution shall not be recoverable by the employer from the insured person.

(5) If an 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 directors of the body corporate who knew or could reasonably be expected to have known of the failure to pay the contribution in question.

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

Civil proceedings

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

Provided that any sum due by way of contributions shall from such date as may be prescribed bear interest at the rate of 10% per annum or such other rate as may be prescribed.

(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 on arose.

(3) Proceedings for the summary recovery as civil debts of sums due to the Fund may be instituted by an officer of the Board authorised in that behalf by special or general Directions of the Board, and any such officer may although not a barrister or a solicitor conduct such proceedings.

Proceedings for benefits lost by employer's default

42. (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 on a lower scale, the Director may, on being satisfied that the contributions should have been paid by the employer, pay to the person or the other person 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 from the employer summarily as a civil debt a sum equal to the amount of the benefit so paid or the contributions not paid whichever be the greater.

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

(3) Proceedings under this section may, notwithstanding any enactment to the contrary, be brought at any time within one year after the

date on which the person concerned would, but for the employer's failure or neglect, have been entitled to receive the benefit in question.

PART VI

MISCELLANEOUS

Crown servants

43. This Act shall apply to persons employed by or under the Crown in like manner as if the Crown were a private person, with such modifications as may be made therein by regulations for the purpose of adapting the provisions of this Act to the case of such persons.

Persons employed aboard ships, vessels or aircrafts

44. (1) Without prejudice to the generality of any other power to make regulations, the Governor in Council may after consultation with the Board make regulations modifying the provisions of this Act in relation to persons who are or have been employed on board any ship, vessel or aircraft.

(2) Regulations made under subsection (1) may in particular provide—

- (a) for the insurance under this Act of persons who are or have been employed on or after the appointed day on board ships, vessels, or aircraft notwithstanding that they do not fulfil the conditions of section 19;
- (b) from excepting for insurance under this Act or from liability to pay contributions any persons employed as aforesaid who are neither domiciled nor have a place of residence in Montserrat;
- (c) for the taking of evidence for the purpose of a claim for benefit in any place outside Montserrat;
- (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 may become entitled to such of their dependants as may be prescribed;
- (e) for withholding any benefit which may be payable to a mariner for any period while the owner of his ship or vessel is under a statutory obligation to pay him wages.

Reciprocal agreement with other countries

45. For the purpose of giving effect to any agreement with the Government of any other part of the Commonwealth or of any other country, being an agreement which provides for reciprocity in matters of

social security it shall be lawful for the Governor in Council by order to modify or adapt the provisions of this Act in their application to cases affected by such agreement.

Exemption from stamp duty

46. (1) Stamp duty shall not be chargeable upon any drafts, order or receipt given in respect of any benefit or upon receipt given in respect of any other payment out of the Fund under section 3(2) nor upon any receipt given by an officer or employee of the Board for or in respect of any sum payable to the Fund.

(2) Nothing in subsection (1) shall be deemed to exempt any person from liability to pay stamp duty on any power of attorney or on any document other than those mentioned in subsection (1) which is otherwise liable to duty under the Stamp Act.

Power to remove difficulties

47. If any difficulty arises in giving effect to the provisions of this Act the Governor in Council may by order published in the *Gazette*, make such provisions as appear to him to be necessary or expedient for removing the difficulty, and any such order shall have effect notwithstanding anything inconsistent therewith in any regulations made under this Act.

General provision as to regulations

48. (1) Wherever in this Act it is provided that regulations shall or may provide for any matter or that any matter shall or may be prescribed by regulations, such regulations shall or may be made as the case may be by the Governor in Council, acting after consultation with the Board.

(2) Without prejudice to any other provision of this Act, any regulation may contain such incidental or supplementary provisions as may be expedient for the purposes of the regulations.

(3) Regulations made under this Act may provide a penalty of \$500 for each offence being a contravention of or failure to comply with any regulation; or, where the offence consists of continuing any such contravention or failure after conviction thereof, \$500 together with a further \$500 for each day on which it is so continued.

(4) All regulations made under this Act shall be laid before the Legislative Council as soon as may be after they are made and if within a period of ninety days beginning with the day on which any such regulations are so laid the Legislative Council resolves that the regulations be annulled they shall thereupon cease to have effect but without prejudice to anything previously done thereunder or to the making of new regulations.

(5) In reckoning any period of 90 days specified in subsection (4) no account shall be taken of any time during which the Legislative Council is dissolved or prorogued or during which the Legislative Council is adjourned for more than fourteen days.

Operation of private schemes

49. Nothing in this Act shall prevent an employer from operating any private scheme providing, for any person who is or has been employed by him, benefits or any kind whether similar to or greater than benefits provided under this Act.

Protection of contributions

50. (1) In any case where—

- (a) any warrant of distress is exercised 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 proceeds of the sale of the property shall not be distributed to any person entitled thereto until the court ordering the sale has made provisions for the payment of any amounts due in respect of contributions payable by the employer during the twelve month immediately preceding the date of order.

(2) For the purpose of this section, the expression “**employer**” includes any company in liquidation under the provisions of the Companies Act.

(3) Any contribution owing to the Fund and not paid shall, upon the person owing the same becoming bankrupt or, being a company, going into liquidation, be treated as a debt due to the Crown under section 38(1)(a) of the Bankruptcy Act.

Appointed day

51. (1) In this Act the expression “**the appointed day**” means, subject to the following provisions of this section, such day as the Governor in Council may by Order published in the *Gazette* appoint, and different days may be appointed for any provision to operate for different purpose of this Act or for any provision to operate for the same purpose in relation to different cases or classes of cases.

(2) Any order made under subsection (1) of this section may contain such incidental or supplementary provision as appear to the Governor in Council to be necessary or expedient for the orderly implementation of the provisions of this Act.

Repeal of National Provident Fund Act

52. (1) The National Provident Fund Act is hereby repealed with effect from the appointed day. The assets of the National Provident Fund on the appointed day including amounts due to the Fund, actionable claims and movable and immovable property shall be transferred to and become part of the Social Security Fund.

(2) Notwithstanding the repeal of the National Provident Fund Act all rights and benefits of existing members which have accrued under the said Act by the appointed day shall exist and be paid after the appointed day in accordance with the provisions of the National Provident Fund Act as if that Act had not been repealed.

(3) Notwithstanding subsection (2) the Governor in Council may by Order authorise the payment from the Social Security Fund to persons who immediately prior to the appointed day were members of the National Provident Fund generally, all or any portion of the amount, contributed to the National Provident Fund and standing to the credit of such members.

(4) An Order made under subsection (3) shall be laid in the Legislative Council at its meeting next following the date on which the Order was made.

(Amended by Act 8 of 1997)

FIRST SCHEDULE

(Section 4(2))

CONSTITUTION AND PROCEEDINGS OF THE SOCIAL SECURITY BOARD

1. The Board shall consist of seven persons appointed by the Governor in Council of whom—

- (a) three shall represent the Government of Montserrat;
- (b) two shall represent employers; and
- (c) two shall represent employed persons.

(Substituted by Act 7 of 1995)

2. The members representing employers shall be appointed after consultation with such associations of employers, or such persons or bodies, as appear to the Governor in Council to be representative of employers generally in Montserrat.

3. The members representing employed persons shall be appointed after consultation with such trade unions or association of trade unions as appear to the Governor in Council to be representative of employees generally in Montserrat.

4. The Governor in Council shall designate two representative members of the Board to be Chairman and deputy Chairman respectively.

5. The representative members of the Board shall hold office for such period not exceeding three years as may be determined by the Minister. Any member of the Board shall be eligible for re-appointment.

6. A member of the Board may at any time, by notice in writing addressed to the Minister, resign his office, and if a member becomes, in the opinion of the Governor in Council, unfit to continue in office or incapable of performing his duties, the Governor in Council shall in such manner as he thinks fit declare the office of the member vacant.

7. The quorum for any meeting of the Board shall be four including the chairman or deputy chairman, one of whom shall preside at all meetings. Where a quorum exists the Board may act notwithstanding any vacancy in its membership.

(Amended by Act 7 of 1995)

8. A substitute member may be appointed by the Minister after consultation with the appropriate body, for any one meeting which a member is unable to attend.

9. The decision of the Board shall be by a majority of votes and in the event of an equality of votes the person presiding at the meeting shall have a casting vote.

10. Minutes of each meeting shall be kept in proper form by such officer of the Board, as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the Chairman or Deputy Chairman as the case may be.

11. The Board may invite 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 invited person shall have any right to vote.

12. If any member of the Board or other person present at a meeting of the Board is directly or indirectly pecuniarily interested in any contract or other matter under consideration at such meeting, he shall at the meeting and as soon as practicable after the commencement of the meeting, disclose the fact of his interest and shall not take part in any discussion, consideration or voting on such contract or other matter.

13. Subject to the provisions of this Act, the Board shall have power to regulate its own proceedings.

SECOND SCHEDULE*(Section 18)***INSURABLE EMPLOYMENT**

1. Employment in Montserrat under any contract of service or apprenticeship, whether written or oral, and whether expressed or implied.

2. Employment as aforesaid outside Montserrat of a person domiciled in or having a place of residence in Montserrat—

(a) as master, officer, or member of the crew of or in any other capacity on board any ship or vessel registered in Montserrat or of any other British ship or vessel of which the owner or if there is more than one owner, the managing owner resides or has his principal place of business in Montserrat; or

(b) as pilot, commander, navigator or member of the crew of or in any other capacity on board any aircraft registered in Montserrat:

Provided that, in either case, the employment is for the purposes of the ship, vessel or aircraft, or the crew thereof or any passenger, cargo or mails carried thereon.

SELF-EMPLOYED PERSONS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
 2. Interpretation
 3. Insurance of self-employed persons
 4. Application for registration
 5. Issue of registration
 6. Duty to produce registration card
 7. Selection of category of income to form basis of contributions
 8. Restriction on selection of categories
 9. Procedure in case of failure to select a category of income
 10. Rate of contribution
 11. Benefits to self-employed persons
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SELF-EMPLOYED PERSONS REGULATIONS – SECTION 18

(S.R.O. 10 of 1996)

Commencement

[1 March 1995]

Short title

1. These Regulations may be cited as the Self-Employed Persons Regulations.

Interpretation

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

“**Act**” means the Social Security Act;

“**appointed day**” means the 1st day of March 1995;

“**contribution year**” means the calendar year in which registration takes place, and thereafter any year beginning on the first day of January and ending on the thirty first day of December in that year;

“**Director**” means the Director of the Social Security Fund;

“**Inspector**” means the person appointed as Inspector under section 12 of the Act;

“**registered**” means registered under these Regulations;

“self-employed person” means a person who is not an employee within the meaning of section 2 of the Act, but who is engaged in gainful occupation in Montserrat.

Insurance of self-employed persons

3. A self-employed person who on or after the appointed day is registered in accordance with these Regulations shall be insured in respect of the several contingencies specified in section 26 of the Act, and in respect of those contingencies specified in the Injury Benefits Regulations.

Application for registration

4. (1) A person who on the appointed day is or who thereafter becomes, a self-employed person, shall apply to the Director on forms prescribed by the Director, to be registered as a self-employed person.

(2) An application under paragraph (1) shall be made within fourteen days of the appointed day or within fourteen days of becoming a self-employed person as the case may be.

(3) A person who fails to register in accordance with the provisions of this regulation commits an offence and is liable on summary conviction to a fine of \$500 and a person who fails to register after a conviction under this regulation commits a further offence and is liable on summary conviction to a fine of \$500 together with a further \$200 for each day on which the offence is continued.

Issue of registration

5. (1) Where on receipt of an application made under regulation 4 the Director is satisfied that the applicant is entitled to be registered under these Regulations, he shall issue the applicant with a Registration card.

(2) A person to whom a registration card is issued shall be responsible for its safe keeping, or if the registration card is lost or destroyed, or, if because of defacement, change of name or otherwise the registration card ceases to represent his identity, he shall apply to the Director for a replacement card.

Duty to produce registration card

6. (1) A self-employed person registered under these Regulations shall, if he later becomes an employed person, produce to his employer his registration card.

(2) A self-employed person who fails to produce his registration card upon the request of the Inspector commits an offence and is liable upon summary conviction to a fine of \$500.

Selection of category of income to form basis of contributions

7. (1) A self-employed person shall upon registration under these Regulations, select for income to the purpose of payment of contributions, the category of weekly income specified below which most closely represents his earnings, that is, either—

(a) category (a), \$100;

- (b) category (b), \$200;
- (c) category (c), \$300;
- (d) category (d), \$400; or
- (e) category (e), \$500.

(2) The category selected under paragraph (1) shall form the basis for calculating the contributions of that person for the whole of the contribution year in which the selection is made.

Restriction on selection of categories

8. (1) For any contribution year subsequent to the contribution year in which registration takes place, a self-employed person may change his selection under regulation 7, save that he may select only the category of weekly income immediately lower or immediately higher than the one which formed the basis of his contributions during the preceding contribution year.

(2) Notwithstanding regulation 7(1)—

- (a) a self-employed person who is over the age of 50 years on the appointed day; and
- (b) an insured person who never paid contributions as a self-employed person before attaining the age of 50 years, but who is subsequently required to pay contributions as a self-employed person,

shall not select a category of weekly income that exceeds \$300.

Procedure in case of failure to select a category of income

9. Where a self-employed person fails to select a category of weekly income for a contribution year—

- (a) if he had selected a category of weekly income for the year immediately preceding that contribution year, he shall be deemed to have again selected that category; and
- (b) if he had not selected a category of weekly income for the year immediately preceding that contribution year, the Director may determine the category of weekly income to be applied for the current contribution year.

Rate of contribution

10. For each weekly or monthly period beginning on or after the appointed day during which a person is registered as a self-employed person, he shall pay contributions to the Social Security Fund at the rate of 6% of the weekly income specified in the category selected under regulation 7 or regulation 8 as the case may be.

Benefits to self-employed persons

11. (1) A self-employed person shall be entitled to the benefits for which provision is made in the Benefits Regulations and the Employment Injury Regulations.

(2) The award of benefits under these Regulations shall be governed by the Regulations specified in paragraph (1), and—

- (a) the terms “**insured person**” and “**relevant person**” in those Regulations shall for the purpose of these Regulations, mean registered “**self-employed person**”;
 - (b) the term “**appointed day**” in those Regulations shall for the purpose of these Regulations, mean the first day of March, 1995.
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REGISTRATION OF EMPLOYEES AND EMPLOYERS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
 2. Interpretation
 3. Notices etc. may be given by post
 4. Application for registration under the Act
 5. Issuing of registration and deduction cards
 6. Disposal of deduction cards
 7. Obligations of employee
 8. Penalty
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REGISTRATION OF EMPLOYEES AND EMPLOYERS REGULATIONS – SECTION 25

(S.R.O. 26/1986)

Commencement

[16 June 1986]

Short title

1. These Regulations may be cited as the Registration of Employees and Employers Regulations.

Interpretation

2. For the purposes of these Regulations, unless the context otherwise requires—
“**Act**” means the Social Security Act;
“**Appointed Day**” for the purposes of these Regulations means the day so appointed for section 51 of the Act;
“**employer**” means a person, natural or legal, who employs a person in insurable employment;
“**termination of employment**” means the day on which the employment comes to an end, whether such termination is in accordance with the terms of the contract or not, and whether or not the employment is to be resumed at a later date.

All other words and expressions defined in the Act shall have the same meanings in these Regulations.

Notices etc. may be given by post

3. Any notice, application, card or other document which is authorised or required to be given, presented, issued or delivered under these Regulations may be sent by post.

Application for registration under the Act

4. (1) Every employer shall, within fourteen days after being requested so to do by the Director, present to the Director on the appropriate form an application for registration as an employer under the Act.

(2) Failing the receipt of such a request every employer shall present to the Director an application for registration as an Employer not later than the Appointed Day.

(3) After the appointed day, every person who becomes an employer shall within seven days of his employing his first employee present to the Director on the appropriate form an application for registration as an employer under this Act.

(4) On registering an employer under the Act the Director shall request that employer to present to him a completed application for registration in respect of each of his employees on an appropriate form to be supplied by the Director. The form for registration of an employee shall be signed and completed so far as possible by the person to whom that form relates.

(5) After the appointed day, if an employer employs a person who has not been previously registered under the Act, the employer shall forthwith present to the Director an application on the appropriate form for registration in respect of such person.

(6) The failure of an employee to produce to his employer within four days after the commencement of his employment with that employer a Social Security registration card issued in accordance with regulation 5(1) of these Regulations shall, for the purposes of paragraph (5) of this regulation, be *prima facie* evidence that the employee has not been previously registered under the Act.

(7) Employers and employees already registered under the National Provident Fund Act need not apply again for registration. Employers and employees so registered shall be treated as registered under the Social Security Act and will continue to carry the same registration numbers which they had under the National Provident Fund Act.

Issuing of registration and deduction cards

5. (1) If upon receipt of an application for registration of an individual under the Act the Director is satisfied that the person concerned is required to be insured, he shall cause to be issued to the employer concerned a Social Security Registration card for that person and the employer shall deliver that registration card, or cause it to be delivered to the employee, or if that person is no longer in his employment, the employer shall return the registration card to the Director. The registration card shall bear unamended the full name and registration number of the insured person. If the entries on the registration card are amended in any way the card shall be invalid and shall be returned to the Director forthwith.

(2) When a registration card is issued to an employer the Director shall, if so requested by the employer, cause a deduction card to be issued to the employer.

(3) The Director shall if so requested by the employer, also issue a deduction card in respect of every Provident Fund member who has become an insured person under section 18(1)(a) of the Act.

(4) A deduction card shall be current for a period of one year or such other period as the Director may direct.

(5) Deduction cards and instructions relating thereto shall if requested by an employer be issued without charge. The deduction card when issued shall remain the property of the Board and shall be returned to the Director or an Inspector when no longer required or on expiry.

(6) Every employer having the custody of a deduction card of an employee in accordance with this regulation shall permit that person to have access to such card. If an employee wishes to inspect his deduction card, while it is in the custody of his employer, the employer shall give him a reasonable opportunity of so doing either within or immediately after working hours:

Provided that no employee shall be entitled by virtue of this paragraph to inspect his deduction card more than once in any one month or except at such times as may be appointed by his employer for the purpose.

Disposal of deduction cards

6. (1) If the employment of an employee is terminated during the currency of his deduction card held by his employer, the employer shall deliver the card to the Director accordingly, within seven days after the end of such employment:

Provided that where such employment is terminated by the employee without notice or intimation to his employer, the said period of seven days shall be extended to fourteen days.

(2) On the death of an employee, the employer or any other person having possession or thereafter obtaining possession of the deduction card of the deceased person, shall forthwith deliver it to the Director.

(3) Within fourteen days or such longer period as the Director may in any special case allow after the date on which any deduction card in the custody of an employer ceases to be current that employer shall deliver such card to the Director.

(4) The Director may, in his discretion, exchange a current deduction card at any time, and in a manner other than that prescribed in these Regulations.

Obligations of employee

7. (1) Every employee shall furnish to his employer on request such personal particulars as the employer may require for the purpose of these Regulations. The employee shall be responsible for the correctness of the particulars so furnished and shall, where required, sign the appropriate form in the place provided for the purpose.

(2) Where an employer is holding a deduction card for an employee, the employee shall within four weeks before the date on which his deduction card ceases

to be current sign the card and insert his then present address in the respective places provided for these purposes on the card.

(3) An employee to whom a registration card is delivered in accordance with regulation 5 shall be responsible for its safe custody, and if any such card is lost or destroyed or because of defacement or change of name or otherwise ceases to represent his identity, the person concerned shall apply to the Director for issue to him of a replacement registration card, and for this purpose the applicant shall furnish the Director with such information as he may require.

(4) Every employee to whom a registration card has been delivered shall on commencing employment with a new employer, and on such other occasions as his employer or an Inspector may request, produce the registration card to the employer or Inspector, as the case may be.

Penalty

8. If any person contravenes or fails to comply with any of these Regulations he shall be liable on summary conviction to a fine not exceeding \$100 for each such offence, or who consist of continuing any such contravention or failure after conviction thereof to a fine of \$100 together with a further \$100 for each day on which it is so continued.

CONTRIBUTIONS REGULATIONS

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CONTRIBUTIONS REGULATIONS – SECTION 26

(S.R.O.s 27/1986, 11/1996 and 7/2004)

Commencement

[20 October 1986]

Short title

1. These Regulations may be cited as the Contributions Regulations.

PART I

PRELIMINARY

Interpretation

2. In these Regulations unless the context otherwise requires—

“**contribution document**” means a document issued under, or prepared by virtue of, the Registration Regulations;

“**contribution week**” means a week beginning on a Monday;

“**contribution year**” means the period of 52 or 53 weeks beginning with the first Monday in any calendar year and ending on the Sunday immediately before the first Monday of the succeeding calendar year;

“**date due**”, in relation to any contribution, means the date on which that contribution was due to be paid in accordance with regulation 12 or the date on which that contribution, if it had been payable, would have been due to be paid (as the case may be);

“**Registration Regulations**” means the Registration of Employees and Employers Regulations;

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

Notices etc. may be sent by post

3. Any notice, application, card or other document which is authorised or required to be given, presented, issued or delivered under these Regulations may be sent by post.

PART II

PAYMENT OF CONTRIBUTIONS

Rates of contributions

4. (1) For each weekly or monthly period beginning on or after the Appointed Day for which an employed person is paid wages, his employer shall pay for such weekly or monthly period a total contribution in accordance with the Schedule hereto in relation to the wages paid to the employed person during or immediately after the end of that period:

Provided that—

- (a) if the wages of an employed person are not fixed on a time basis, the total amount of the wages paid to him in or immediately after the relevant period for which contributions are to be paid may be taken into account; and
- (b) if the wages of an employed person 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.

(2) The wages of an employed person for the purposes of paragraph (1) shall include all gross earnings received in cash by or on behalf of the employed person, including—

- (a) overtime payment;
- (b) cost of living payment, including any house allowance;
- (c) additional payments in respect of dependents;
- (d) supplements for long service in industry, or efficiency;
- (e) commission or profits on sales;
- (f) gratuities paid by the employer excluding lump sums paid on retirement and any Christmas Bonus or similar payment;
- (g) payments for night or shift work;
- (h) production bonus;
- (i) danger or dirt money or similar payments;
- (j) service charges;
- (k) any employed person's liabilities (including tax) paid on his behalf by the employer; and
- (l) 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:

Provided that in the case of items specified the amounts so received in respect of any of them shall, if they are not paid together

with the wages for the period for which they were due, be included in the wages for the period in, or immediately after which they are paid.

Liability for contributions on attaining age 16 and 60

5. A contribution under the Act shall be paid—

- (a) in the case of an employed person attaining the age of sixteen years, for the week in which that person reaches that age;
- (b) in the case of an employed person attaining the age of 60 years, for the week in which the employed person reaches that age:

Provided that a contribution shall not be paid in respect or on behalf of an employed person if that person attains the age of 60 years on the Monday of the week in question.

- (c) in a case of employees who have exceeded 60 years of age, they will be permitted to contribute towards Employment Injury. (*Inserted by S.R.O. 7/2004*)

Exemption from payment of contributions

6. (1) An employer shall be exempt from liability to pay contributions for any contribution week—

- (a) in which no work is done by the employed person and that person receives no wages in respect of the period;
- (b) in which the employed person is engaged in full-time unpaid apprenticeship; or
- (c) for the whole of which the employed person receives sickness or maternity benefit.

(2) Nothing in paragraph (1) shall be deemed to affect the liability of an employed person and his employer to pay contributions for any contribution week in which that person is on vacation or other leave if contributions are normally payable in respect of the employment of such person.

Deduction of contributions from wages

7. (1) Every employer on making any payment of wages to any employed person may deduct the contributions paid on behalf of that person in accordance with these Regulations.

(2) An employer shall not be entitled to recover any contributions paid by him or to be paid by him on behalf of any employed person otherwise than by deduction in accordance with these Regulations.

Time of deduction of contributions

8. (1) An employer liable to pay any contribution on behalf of an employed person may, except as hereinafter provided, deduct that contribution before paying to that person the wages in respect of the period for which such contribution is payable.

(2) Where wages are paid in advance for any period an employer shall deduct contributions in advance for that period before the payment of the wages.

(3) On the occasion of any payment of wages to an employed person, the employer may, on making the payment in question, deduct from the wages the amount of the contributions based thereon which that person is liable to pay under these Regulations:

Provided that when two or more payments of wages fall to be aggregated the employer may deduct the amount of contributions based thereon which are payable by the employed person either wholly from one payment or partly from one and partly from the other or any one or more of the others.

(4) If by reason of any error made in good faith an employer on making any payment of wages to an employed person fails to deduct therefrom the full amount of contributions which he may deduct, he may, after prior notification to that person, recover the amount so under-deducted by deduction from any subsequent payment of wages to that employed person during the same year:

Provided that—

- (a) the amount that may be deducted from any payment, or from any payment which fails to be aggregated, shall be in addition to, but shall not exceed, the amount deductible therefrom under other provisions of these Regulations; and
- (b) for the purpose of regulations 12 and 13 any additional amount which may be deducted by virtue of this paragraph, shall be treated as an amount deductible under these Regulations only in so far as the amount of the corresponding under-deduction has been so treated.

Manner of recording contributions

9. Every employer shall record either on a contribution document or in such other form as may be authorized by the Director the following particulars regarding every payment of wages which he makes to an employed person, namely—

- (a) the date of commencement of the contribution week;
- (b) the wages, determined in accordance with regulation 4(2);
- (c) the contribution which may be deducted from the wages;
- (d) the contribution which is payable by the employer in respect of the wages; and
- (e) the total of sub-paragraphs (c) and (d):

Provided that—

- (i) where two or more payments fall to be aggregated the employer, instead of recording the amount of each contribution which may be deducted from the wages included in each payment, may record the total amount of the contributions which may be deducted from those payments;

- (ii) the employer may obtain authority from the Director to record the total only of sub-paragraphs (c) and (d).

No contribution document held by employer

10. If an employer makes any payment of wages to an employed person in respect of whom he does not hold a contribution document, and that payment is a payment of wages in respect of which contributions are payable, he may deduct the amount of the contributions based thereon which are payable by that person and shall, keep records on a contribution document which he shall prepare for the purpose as if the payment was one to which regulation 9 applied and shall do likewise on making any subsequent payment of wages to the employed person.

Tax free wages

11. Where an employer makes a payment to or for the benefit of an employed person in respect of that person's income tax, the amount of the wages which the employer pays to that person shall be deemed, for the purpose of these Regulations, to be such a sum as will include the amount of the payment made by the employer in respect of that person's income tax.

Payment of contributions by employer

12. (1) At the end of the month in which wages are paid, or within one month thereafter, an employer shall pay, by means acceptable to the Director, the contributions payable by the employer under these Regulations in respect of the wages paid by him to each employed person for each contribution week in that month together with the appropriate amount by way of the employer's contributions.

(2) In addition to any other requirements, an employer shall, where the employment of an employed person is terminated, pay all contributions due from the employer but still outstanding in respect of that employed person at the end of the month in which deduction was made, or within one month thereafter.

(3) The Board may, if it thinks fit and subject to terms and conditions as it may impose, approve any arrangement whereby contributions are paid at times and in a manner other than those prescribed by these Regulations, and any such arrangement may include provision for the payment of such fees as may be determined by the Board to represent the estimated additional expense in administration costs of the Board.

(4) As a condition of authorising the payment of any contribution on a date later than that upon which the contribution would, apart from any authorisation under paragraph (3), i.e. due to be paid, the Board may require the making of such deposits of money by way of security as the Board may approve.

(5) Paragraphs (3) and (4) shall, subject to the terms and conditions of any such arrangements, apply to any person affected by such arrangements, and any contravention of, or failure to comply with, any requirement of any such arrangement shall be deemed to be contravention of, or failure to comply with, these Regulations.

(6) If an employer, by reason of an error made in good faith has paid to the Director on account of contributions under this regulation an amount which he was not

liable so to pay, any amount which he is liable to pay subsequently in respect of other payments of wages made by him during the same year shall be reduced by the amount so overpaid:

Provided that if there was a corresponding over-deduction from any payment of wages to any employed person, this paragraph shall apply in so far as the employer has accounted to that person therefor.

Employer failing to pay contributions due

13. (1) If within the time prescribed by regulation 12—

- (a) an employer has not paid any contribution which he is liable to pay to the Director for that month and the Director is unaware of the amount, if any, which the employer is liable to pay; or
- (b) the employer has tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month,

the Director may give notice to the employer requiring him to render within the time specified in the notice (being not less than five days), a written return showing the name of every employed person to whom he made any payment of wages in the period from the preceding first day of January, or such other date as the Director may specify, to the previous month, together with the following particulars regarding such employed person—

- (i) every payment of wages made during that period;
- (ii) the total amount of contributions which the employer was entitled to deduct during the period and which the employer is liable to pay for that month;
- (iii) the total amount of contributions which was payable by the employer in addition to the amount deductible under subparagraph (ii); and
- (iv) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(2) The Director shall ascertain and certify the amount of contributions which the employer is liable to pay in respect of the month in question.

(3) The production of the return made by an employer under paragraph (1) and of the certificate of the Director under paragraph (2) shall be good and sufficient evidence that the amount shown in the said certificate is the amount of contributions which the employer is liable to pay to the Director in respect of the month in question, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Nil returns

14. An employer, being a person registered as such under the Registration Regulations, who does not pay to the Director any contributions on the date due

because that employer did not employ any employed persons during the period relevant to that date shall instead send to the Director a statement to that effect.

PART III

CONTRIBUTIONS PAID IN ERROR OR LATE

Disposal of contributions paid erroneously

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

Treatment of contributions paid late or not paid without consent, connivance or negligence of employed person

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

PART IV

REFUNDS

Refund of contributions paid in error

17. (1) Subject to the provisions of regulation 15 and of this regulation, contributions paid by an employed person or by his employer (if any) under the erroneous belief that the contributions were payable by or on behalf of that person shall be refunded by the Board to the person or to his employer, as the case may require, if application to that effect is made in writing to the Board within the appropriate time specified in paragraph (4) of this regulation.

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

- (a) in the case of employer's contributions and contributions as an insured person, the amount of any contributions paid under erroneous belief as aforesaid which have, under the provisions of regulation 15, been treated as paid on account of other contributions; and
- (b) in the case of contributions as an insured person, the amount, if any, paid to that person (and to any other person on the basis of the erroneous belief) by way of benefit which would not have been paid had the contributions (in respect of which an application for their return is duly made) not been paid in the first instance.

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

(4) An application for the return of any contributions paid under erroneous belief as aforesaid shall be made in such form and in such manner as the Board may from time to time determine, and any such application shall be made—

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

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

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

Refund of contributions to certain elderly entrants

18. (1) Where an employed person attains the age of 60 years on a date not later than 26 contribution weeks after he becomes an insured person, he shall be entitled to be refunded the contribution actually paid on his behalf in respect of any contribution week within the said 26 weeks.

(2) Where an employed person attains the age of 60 years on a date not later than 49 contribution weeks after he becomes an insured person, then, for each contribution paid on behalf of him, he shall be entitled to a refund of that element of the contribution which represents invalidity, age and survivor's benefit.

(3) An application for a refund under this regulation shall be made in writing addressed to the office of the Board and shall be made—

- (a) in respect of an application under paragraph (1) within three months from the date on which the employed person attained age 60; and
- (b) in respect of an application under paragraph (2) within two years from the date on which the employed person attained the age of 60 years or such longer period as the Board may allow, if it is satisfied that the person had good cause for not submitting an application within the specified time.

PART V

MISCELLANEOUS

Records

19. An employer shall maintain a record, in addition to a contribution document, showing in respect of each person employed by him—

- (a) the date on which such employment commenced and the date of the termination of employment; and
- (b) the date and amount of each payment of wages.

Returns by employer

20. (1) Subject to paragraph (6), an employer shall, before the end of January of each year, render to the Director, in such form as the Board may approve or prescribe, a return in respect of each employed person containing such particulars as the Board may require.

(2) The return mentioned in paragraph (1) shall be accompanied by a declaration and statement in a form approved by the Board containing a list of all contribution documents, and all such documents shall be sent to the Director with the said return and statement.

(3) Where an employer is a body corporate, the declaration and the certificate referred to in paragraph (2) shall be signed by a person duly authorised by the said body corporate.

(4) A return shall be made under this regulation in respect of every employed person in respect of whom a contribution document has been either issued to the employer by the Director or prepared by the employer in accordance with the Registration Regulations or to whom the employer has at any time during the year made a payment of wages in respect of which contributions were payable.

(5) If an employer has failed to pay to the Director before the end of January of each year the total amount of contributions which he is liable to pay in respect of the previous year, the Director may prepare a certificate showing the amount of contributions remaining unpaid for that previous year and the said certificate that any specified amount of contributions has not been paid to him, or, to the best of his knowledge and belief, to any person to whom it might lawfully be paid, shall be sufficient evidence in any court that the sum mentioned in the certificate is unpaid and due to the Board, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(6) Where the registration of a person as an employer is cancelled, in accordance with the Registration Regulations, then the provisions of this regulation shall apply to that person as if references in this regulation to “before the end of January of each year” were references to “within one month after the date of the cancellation of the registration of that person as an employer” and reference to an “employer” shall include references to a person whose registration as an employer has been cancelled.

Inspection of employer's records

21. (1) An employer, whenever called upon to do so by an Inspector designated under section 12(1) of the Act or other authorised officer of the Board, shall supply such information with respect to persons who are or have been employed by that employer as may be requested, and shall produce all wages sheets, contribution and documents, and records whatever of the wages of such persons in respect of the years or months specified by the Director or such Inspector or other authorised officer of the Board in relation to the deduction of contributions in respect of such wages.

(2) The Director, by reference to the information obtained from inspection of the documents and records produced under paragraph (1), may on the occasion of each inspection prepare a certificate setting out—

- (a)* the amount of contributions for which the employer is liable to pay for the said years or months in accordance with the documents so produced; and
- (b)* any amount of contributions which have not been paid to him or, to the best of his knowledge and belief, to any person to whom it might lawfully be paid.

(3) The production of a certificate such as is mentioned in paragraph (2) shall be sufficient evidence in any court that the employer is liable to pay to the Director in respect of the years or months mentioned in the certificate the amount shown therein pursuant to paragraph (2)(b) and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

Death of an employer

22. If an employer dies, anything which he would have been liable to under these Regulations shall be done by his personal representatives; in the event of the death of an employer who paid wages on behalf of another person, the said things shall be done by the person on whose behalf he had paid those wages.

Succession to a business

23. (1) This Regulation applies where there has been a change in the employer from whom an employed person receives wages in respect of his employment in any trade, business, concern or undertaking or in connection with any property, or from whom that person receives any annuity other than a pension.

(2) Where this regulation applies, in relation to any matter arising after a change of employer, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place:

Provided that the employer after the change shall not be liable for the payment of any contributions which were deductible from wages paid to an employed person before the change, unless such contributions were also deductible from wages paid to the employed person after the change took place, or of any corresponding employer's contribution.

Penalties

24. If any person fails to comply with any of the provisions of these Regulations, or with any direction or requirement of the Board given or made by virtue of these Regulations, and that failure does not constitute an offence under the Act for which a penalty is therein provided, he shall be guilty of an offence and liable on summary conviction to a fine of \$500.

SCHEDULE*(Regulation 4)**(Amended by S.R.O. 11/1996 and 7/2004)***RATES OF CONTRIBUTIONS****PART I****EMPLOYED PERSON'S CONTRIBUTION**

<i>Description of employed persons</i>	<i>Rates of contributions</i>
Employees under the age of 16 years	NIL
Employees between the ages of 16 and 60 years	at the rate of four per cent of insurable earnings up to a maximum of \$3,510 per month or \$810 per week, calculated to the nearest dollar.
Employees who have attained the age of 60 years	NIL

PART II**EMPLOYER'S CONTRIBUTION**

<i>Description of employed persons</i>	<i>Rates of contributions</i>
Employees under the age of 16 years	NIL
Employees between the ages of 16 and 60 years	5 per cent (4% + 1% employment Injury) of insurable earnings up to a maximum of \$3,510 per month or \$810 per week, calculated to the nearest dollar.
Employees who have attained the age of 60 years	NIL

EMPLOYMENT INJURY REGULATIONS

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EMPLOYMENT INJURY REGULATIONS – SECTION 27 AND 31

(S.R.O. 17/1996)

PART I

PRELIMINARY

Commencement

[1 March 1995]

Short title

1. These Regulations may be cited as the Employment Injury Regulations.

Interpretation

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

“**accident**”, in relation to an employed person or insured person, means an accident arising out of and in the course of that person’s insurable employment within the meaning of section 27 of the Act;

“**Act**” means the Social Security Act;

“**appointed day**” means the 1st day of March 1995;

“**board**” means the Social Security Board;

“**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;

“**insured person**” or “**employed person**” means a person who is insured by virtue of subsection (1) of section 18 of the Act;

“**medical practitioner**” means a person registered as a medical practitioner in Montserrat or a person approved by the board as being competent to provide services commonly provided by a medical practitioner registered in Montserrat;

“**paid contribution**” means a contribution actually paid by or in respect of an insured person in accordance with the provisions of the Act;

“**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;

“**relevant accident**” means the accident in respect of which benefit is claimed or payable;

“**relevant injury**” and “**relevant loss of faculty**” means 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.

PART II

BENEFITS FOR PERSONAL INJURY BY ACCIDENT

Entitlement to injury

3. (1) Where an insured person suffers personal injury from an accident occurring after the appointed day, and the disablement resulting from any loss of physical or mental faculty is less than 10% he shall, subject to regulation 5(1) be entitled to injury benefit in respect of any day on which, as a result of the injury he is incapable of work during the period of 26 weeks 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

4. (1) The daily rate of injury benefit payable to an insured person shall be 75% of the average insurable weekly earnings of that person divided by five.

(2) The average insurable weekly earnings of an insured person shall be the sum of the insurable earnings of, or credits awarded to, that person in the thirteen weeks immediately preceding the contribution week in which the accident occurred, divided by thirteen.

(3) Where by reason of the shortness of time during which the insured person has been in the employment of an employer, or the causal 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, the provisions of paragraph (4) shall apply.

(4) In any of the circumstances mentioned in paragraph (3), the average insurable weekly earnings shall be calculated by reference to the average weekly earnings during the thirteen contribution weeks prior to the contribution week in which the accident occurred, of a person employed by the same employer, in the same grade and class of employment and of similar earning capacity.

Commencement of injury benefit

5. (1) A 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 from the fourth day of such period.

(2) For the purpose of computing the first three days of any continuous period of incapacity for work under paragraph (1) the following Rules shall apply—

- (a) public holidays shall be included;
- (b) for persons employed on the basis of a regular work week, that is continuously from Monday to Friday, Saturdays and Sundays shall not be included;
- (c) for persons employed on the basis of an irregular work week, that is, not on the basis specified in paragraph (b) any day which is not a work day shall not be included;
- (d) for the purposes of paragraph (c) a work day is a day on which a person is by roster or otherwise, scheduled to work.

(3) Notwithstanding paragraph (1), where an insured person had an earlier continuous period of incapacity for work exceeding three days for which sickness or injury benefit was paid, and the interval between the last day of such period and the commencement of a further period of incapacity for work is less than eight weeks, injury benefit shall be payable from the first day of the further period at a rate calculated in accordance with regulation 4.

(4) In determining the first day of a further period of incapacity for the purpose of paragraph (3) the Rules specified in paragraph (2) shall apply.

Disablement benefit

6. (1) Subject to paragraph (2), an insured person who suffers personal injury caused by accident occurring after the appointed day shall be entitled to disablement benefit if, as a result of that injury he is, after the third day following the accident suffering from loss of physical or mental faculty.

(2) 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%.

(3) For the purposes of this regulation and regulation 3(1), 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) a disability shall be treated as having been incurred as a result of the relevant loss of faculty except that subject to the provisions of paragraph (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 have not 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 Part I of the Schedule, be the percentage degree there indicated and other disabilities shall be assessed accordingly; and
- (e) the assessment shall take account of disfigurement.

(4) The period to be taken into account in assessing 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.

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

- (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 of changes in that condition; 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—

- (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 20 and 100 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 multiple of ten.

Certification and medical examination

7. (1) A claim for injury benefit or disablement benefit shall be made in such form as may be prescribed by the Director and shall be supported by a certificate from a Medical Practitioner.

(2) The Director may, before determining a claim to injury benefit or disablement, require the claimant to attend for and submit himself to medical examination by one or more medical practitioners appointed by the Board.

Categories of disablement benefit

8. (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 as amounting to 20% or more, disablement benefit shall be a periodical payment hereinafter referred to as “disablement pension” for that period.

(3) Where the period of disablement is limited by reference to a definite date, the pension shall cease on the death of the beneficiary if death occurs before that date.

Rate of disablement benefit

9. (1) The amount of disablement grant shall be a lump sum equal to 220 times the average insurable weekly earnings multiplied by the percentage specified in Column 2 of Part I of the Schedule which represents the appropriate disablement as specified in Column 1 of Part I of the Schedule.

(2) The weekly rate of disablement pension shall be as follows—

(a) for disablement assessed at 100%, 75% of the average insurable weekly earnings of the insured person;

(b) for disablement assessed at 20% or more but less than 100%, the percentage represented by the disablement multiplied by the weekly rate of disablement pension of that person if that person’s disability was assessed at 100%.

Partial disablement treated as total disablement

10. (1) Where a beneficiary entitled to a disablement pension enters a hospital or similar institution for the purpose of receiving treatment related to the accident, 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 11, 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% 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

11. (1) Where the Director is satisfied that as a result of an injury occasioning disablement the injured person requires the constant attendance of another person, the weekly rate of disablement pension shall be increased by \$50 per week.

(2) An increase of benefit 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.

(3) An increase in benefit under paragraph (1) shall not be payable in respect of any period for which the beneficiary is receiving medical treatment as an in-patient in a hospital or other similar institution.

(4) For the purpose of determining entitlement to constant attendance allowance, the Director may refer the case for advice to a medical practitioner appointed by the Board.

Occupational training and rehabilitation

12. (1) Where, based on the medical report of a person entitled to a disablement pension or disablement grant the Director is satisfied that occupational training or a course of rehabilitation could reduce the degree of disablement suffered by that person, he may require that person to attend a course of occupational training or rehabilitation.

(2) A person who participates in a course of occupational training or rehabilitation in accordance with a request of the Director under paragraph (1) shall be entitled to an allowance out of the Fund for each day of participation on the said course.

(3) The allowance mentioned in paragraph (1) shall be equal to the expenses incurred by the person participating in the course for travelling, food and accommodation, subject to a maximum amount to be fixed by the Board.

(4) 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.

Medical treatment

13. (1) An insured person who suffers personal injury as a result of an accident shall be entitled to such medical treatment provided in Montserrat by the Government medical services as the Board in consultation with the Chief Medical Officer considers necessary in consequence of the relevant injury.

(2) Treatment provided to an insured person under paragraph (1) shall include—

- (a) medical, surgical and dental treatment (including specialist care) as an in-patient or an out-patient at Government hospitals, clinics and other similar institutions;
- (b) supply, maintenance, repair and renewal of dental appliances, spectacles, artificial limbs and other appliances; and
- (c) essential pharmaceutical supplies prescribed by a medical practitioner.

(3) Treatment may, with the approval of the Board be received outside of Montserrat where—

- (a) the Board is satisfied that that treatment cannot be administered in Montserrat; or
 - (b) the accident giving rise to the injury occurred outside of Montserrat and the Board is satisfied that it would be inexpedient for the treatment to be administered in Montserrat.
- (4) An insured person shall be entitled to a refund for travelling expenses reasonably incurred in obtaining periodic treatment necessitated by personal injury caused by accident.

Medical expenses incurred outside the Territory

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

- (a) in Montserrat, and incurs medical expenses outside of Montserrat, the amount refunded under these Regulations shall not, subject to paragraph (2), exceed an amount which in the opinion of the Board is reasonable in the circumstances of that case;
- (b) outside Montserrat, and incurs medical expenses outside of Montserrat, the amount refunded under these Regulations shall not, subject to paragraph (2), exceed the amount of the expenses which may be refunded under paragraph (a),

and in no case shall the said amounts exceed \$500.

(2) Any limitation on 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.

(3) The Board may, under paragraph (2) approve medical expenditures of up to \$45,000 in a proper case.

(4) Where the injuries received by a person under paragraph (1) are so critical that death would be imminent, or serious disablement would occur if medical treatment, the value of which exceeds \$45,000 were not administered, the Board may, notwithstanding paragraph (3), approve such medical expenditures exceeding \$45,000 as it considers reasonable in the circumstances.

Disqualifications from injury benefit and disablement pension

15. (1) A person shall be disqualified from 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 an occupational training or rehabilitation course after the Director has required him to attend.

(2) In the case of a person who has been disqualified from receiving injury benefit or disablement pension under paragraph (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.

PART III

DEATH BENEFIT

Grant payable to estate

16. Where an insured person dies as a result of a personal injury caused by accident, a sum of \$30,000 shall be paid in respect of his death to his estate.

Death benefit payable to survivors

17. Notwithstanding regulation 16, where an insured person dies as a result of a personal injury caused by accident, death benefit shall be payable in accordance with the provisions of these Regulations to the widow or widower to the parents and to the children of the relevant person.

Entitlement to widow's death benefit

18. (1) Subject to the provisions of this regulation, 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 had been married to him for not less than three years and—

- (a) is over 50 years of age in which case the benefit shall be payable for life; or
- (b) is incapable of self support by reason of invalidity, in which case the benefit shall be awarded for so long as the invalidity continues, and if at the time the invalidity ceases the widow is over 50 years of age, the benefit is payable for life; or
- (c) is under 50 years of age and has a child or children eligible for death benefit under regulations 17 and 20, in which case it is payable until the youngest child attains the age of sixteen years, or, if continuing in full time education eighteen years, and if when the youngest child attains the age of sixteen years, or eighteen years as the case may be the widow is over 50 years of age, the benefit shall be payable for life; or
- (d) is pregnant and under the age of 50 years, in which case the benefit shall be payable for one year, but if as a result of the pregnancy a live

child or children are born, a benefit shall become payable under paragraph (1)(c).

(2) Where the widow of the relevant person is unable to satisfy any of the requirements specified in paragraph (1), widow's death benefit shall be awarded to her for a period of one year from the death of the relevant person.

(3) Widow's death benefit payable under this regulation shall, subject to paragraph (4) be paid for a minimum period of one year.

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

Entitlement to widower's death benefit

19. (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 had been married to her for not less than three years and—

- (a) is over the age of 50 years, in which case it shall be payable for life;
- (b) is incapable of self support by reason of invalidity in which case the benefit shall be awarded for so long as the invalidity continues, and if at the time the invalidity ceases the widower is over 50 years of age, the benefit is payable for life;
- (c) is under 50 years of age and has a child or children eligible for death benefit under regulations 17 and 20, in which case it is payable until the youngest child attains the age of sixteen years, or, if continuing in full time education eighteen years, and if when the youngest child attains the age of sixteen years, or eighteen years as the case may be the widow is over 50 years of age, the benefit shall be payable for life.

(2) Where the widower of the relevant person is unable to satisfy any of the requirements specified in paragraph (1), widower's death benefit shall be awarded to him for a period of one year from the death of the relevant person.

(3) Widower's death benefit payable under this regulation shall, subject to paragraph (4), be paid for a minimum period of one year.

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

Child's death benefit

20. The provisions of regulation 38 of Benefits Regulations (relating to entitlement to child's pension) shall 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

21. 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 was wholly or mainly maintained by the relevant person at the time of the relevant person's death.

Rates of death benefit

22. (1) The weekly rate of death benefit payable to a survivor shall be a proportion of 70% of the relevant person's average weekly insurable earnings payable as follows—

- (a) one-half of 70% in the case of a widow or widower;
- (b) two-fifths of 70% 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 of 70% in the case of any other child until attaining the age of sixteen or, if continuing in full time education, until the age of eighteen;
- (d) two-fifths of 70% to a parent.

(2) For the purposes of regulation 17 and paragraph (1) of this regulation **“parent”** includes any person who is not a biological parent of the insured person but who shows to the satisfaction of the Director that at the time of the death of the insured person he substantially functioned as a parent of the insured person.

(3) The minimum weekly rate of death benefit shall be \$10.

Funeral grant

23. (1) A funeral grant of \$3,000 shall be payable in respect of the death of an insured person who dies as a result of a personal injury caused by accident.

(2) Entitlement to the payment of a funeral grant in respect of the death of any person under this regulation excludes entitlement to payment of a funeral grant in respect of the death of the same person under regulation 34 of the Benefits Regulations.

PART IV

PROVISIONS RELATING TO PRESCRIBED DISEASES AND INJURIES

Prescription of diseases and injuries

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

(2) Where a person has developed a 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 was employed as an employed person in that occupation on or after the appointed day, the benefits payable under Parts II and III shall be payable in respect of that disease or injury, and for this purpose—

- (a) any reference under this Part to the development of a disease or an injury due to the nature of an employment is a reference to suffering personal injury by accident; 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 which the claimant is incapable of work as the result of that disease or injury;
 - (ii) if the first claim in respect of disease or injury is for disablement benefit, the first day on which the claimant has suffered from loss of physical or mental faculty as the result of the disease.
- (3) 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 his incapacity is predominantly due to further exposure to the risk of that disease or injury.

Duplicate rights

25. (1) Subject to the provisions of paragraph (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 to which he first became entitled.

(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 Part II of the Schedule:

Provided that the total degree of disablement taken into account shall not exceed 100%.

Determination of Questions

26. Any question or dispute arising under or in connection with these of Regulations shall be determined in accordance with the procedures laid down in the Determination of Questions Regulations.

SCHEDULE
EMPLOYMENT INJURY BENEFITS

PART I
(Regulation 9)

PRESCRIBED DEGREES OF DISABLEMENT

<i>Description of Injury</i>	<i>Degree of Disablement %</i>
1. Loss of 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 thumbs – both phalanges	30
21.	Loss of thumbs – 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
35.	Loss of metacarpals – third, fourth or fifth (additional)	4

AMPUTATION CASES – LOWER LIMBS

36.	Double amputation through thigh, or through thigh on one side and loss of other foot, or double amputation below knee	100
37.	Double amputation through leg lower than 5 inches below knee	100
38.	Amputation of one leg lower than 5 inches below knee and loss of other foot	100

39.	Amputation of both feet resulting in end-bearing stumps	90
40.	Amputation through both feet proximal to the metatarsophalangeal joint	80
41.	Loss of all toes of both feet through the metatarsophalangeal joint	40
42.	Loss of all toes of both feet proximal interphalangeal joint	30
43.	Loss of all toes of both feet distal to the proximal interphalangeal joint	20
44.	Amputation through hip-joint	90
45.	Amputation below hip with stump not exceeding 5 inches in length measured from tip of great trochanter	80
46.	Amputation below hip with stump exceeding 5 inches in length measured from tip of great trochanter, but not beyond middle thigh	70
47.	Amputation below middle thigh 3½ inches below knee	60
48.	Amputation below knee with stump exceeding 3½ inches but not exceeding 5 inches	50
49.	Amputation below knee with stump exceeding 5 inches	40
50.	Amputation of one foot resulting in end bearing stump	40
51.	Amputation through one foot proximal to the metatarsophalangeal joint	40
52.	Loss of all toes of one foot proximal to the interphalangeal joint, including amputation through metatarsophalangeal joint	20
53.	Loss of great toe – both phalanges	10
54.	Loss of great toe – one phalanx	5
55.	Loss of great toe – part with some loss of bone	3
56.	Loss of toes other than great toe each	3
57.	Loss of toes other than great toe – part with some loss of bone	1

OTHER SPECIFIC INJURIES

58.	Loss of one eye, without complications, the other being normal	40
59.	Loss of vision of one eye without complications or disfigurement of the eye-ball, the other being normal	30
60.	Loss of hearing – one ear	20

COMPLETE POST-TRAUMATIC ANKYLOSIS OF LIMBS AND JOINTS

Complete ankylosis of:

61.	Spine	30
62.	Shoulder	40
63.	Elbow	30
64.	Wrist	30
65.	Superior and inferior radio – ulnar	30
66.	Thumb – first metacarpophalangeal	30
67.	One joint of any finger excluding thumb	3
68.	All three joints of one finger excluding thumb joints	10
69.	Joints of all fingers excluding thumb	30
70.	Finger joints of all fingers including thumb	40
71.	Hip joints	40
72.	Knee	19
73.	Ankle	19
74.	Subtailer – sub-astragaloid group of joints	19
75.	Big toe – first metatarsophalangeal	19
76.	Toe Joints	10

POST-TRAUMATIC PARALYSIS OF LIMBS OR PARTS OF THE BODY

77. Total paralysis due to spinal cord injury 100

Total paralysis of:

78. Brachial plexus 70

79. Radial nerve 50

80. Medial nerve 40

81. Ulnar nerve 40

82. Sciatic nerve 70

83. Medial popliteal 40

84. 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 6(3) taking into account cases specified in this Schedule of equal or similar effect.

PART II

(Regulation 24)

**LIST OF PRESCRIBED DISEASES AND INJURIES AND THE
OCCUPATIONS FOR WHICH THEY ARE PRESCRIBED**

Description of Disease or Injury	Nature of Occupation
(1)	(2)
Poisoning by:	Any occupation involving:
1. Lead or a compound of lead	The use of handles 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 of 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

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| 9. | A nitro-or amino- or chloroderivative of benzene, or of a homologue of benzene or by nitrochlor-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. | Dinitrophenol 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 tricresyl phosphate |
| 13. | Tri-phenyl phosphate | The use or handling of, or exposure to the fumes of, or vapour containing triphenyl phosphate |
| 14. | Diethylene dioside (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 naphthalene | 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. | Gonioma Kammasic (African Box-wood) | The manipulation of Gonioma Kammasic or any process in or incidental to the manufacture of articles therefrom |

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| 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 <i>Leptospira icterohaemorrhagiae</i> | Work in places which are, or are liable to be, infested by rats |
| | B. Infection by <i>Leptospira canicola</i> | 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 | 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) |
| | 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 | |
| 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 hand-writing, typing or other repetitive movements of the fingers, hand or arm |

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|-----|--|--|
| 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 pressure at or about the elbow (Beat elbow) | Manual labour causing severe or prolonged external friction or pressure at or about the 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 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; |

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
- (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 a material which is a source of tuberculosis infection
- (a) Work in a building in which any of the following substances is produced for commercial purposes:
- (i) alpha-naphthylamine or betanaphthylamine
 - (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, nylhyl or methane groups but not by other groups
 - (iv) the salts of any of the substances mentioned in sub-paragraphs (i) or (iii) above; or
 - (v) Auramine or magneta

- (b) The use or handling of any of the substances mentioned in subparagraphs (i) to (iv) or 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 ionizing particles or electromagnetic radiations other than radiant heat) Exposure to dust, liquid, vapour or any other external agent capable of irritating the skin (including friction or heat but excluding ionizing 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 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) In any other work relating to the care, treatment, examination or handling of such animals, carcasses or parts thereof, or products.
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SOCIAL SECURITY (BENEFITS) REGULATIONS

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SOCIAL SECURITY (BENEFITS) REGULATIONS – SECTIONS 31 AND 48

(S.R.O.s 24/1987, 12/1996, 17/1997 and 3/2004; and Act 4 of 2003)

Commencement

[18 November 1987]

Short title

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

PART I

PRELIMINARY

Interpretation

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

“**appeal tribunal**” means an appeal tribunal established and constituted under the Determination of Questions Regulations;

“**claimant**” means a person claiming benefit and 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 28 weeks of pregnancy resulting in the birth of a child whether alive or dead;

“**contribution**” means the total of an employer’s and an employed person’s contributions;

“**contribution week**” and “**contribution year**” have the same meanings respectively as in the Contributions Regulations;

“**Contributions Regulations**” means the Contributions Regulations;

“**credited**” means a credit awarded in accordance with regulation 48;

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

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

“**insurable earnings**” means the earnings in the relevant period by the relevant person on which contributions have been paid subject to a maximum of \$3,510;

“**invalid**” means a person incapable of work as the result of a specific disease or of 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;

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

“**relevant day**” means July 1, 1986.

(Amended by S.R.O.s. 12/1996 and 3/2004)

PART II

CLAIMS

Claims to be made in writing

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

(2) Forms of claims 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 in these Regulations, and the Director may require any claimant to attend at such place as the Director may specify and there 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) If so required by the Director, a claimant shall in particular furnish the following information concerning himself and any person making a claim on behalf of another person shall furnish such information about the person for whom the benefit is claimed—

- (a) his name, date and place of birth, usual place of residence, employment or former employment and, not being the claimant, his relationship to the claimant;
- (b) in the case of a claim in respect of a wife or husband or a widow or widower, or a claim based on the fact that the wife, husband, widow or widower was an insured person, a certificate of the 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 the foregoing paragraphs—

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

Date for claims

5. For the purposes of any claim to 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. (1) If a claim is defective when it is received by the Director, the Director may refer the claim to the claimant and, if the form is returned properly completed within one month from the date on which it is so referred, the claim shall be treated as if it had been duly made in the first instance.

(2) 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.

Interchange of claims

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

Time for claiming

8. (1) The time for claiming benefits shall be—

- (a) in the case of sickness benefit, not later than fifteen days from the earliest day in respect of which incapacity for work is certified;
- (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 beginning with 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;
- (d) in the case of funeral grant, within six months from the date of death of the deceased.

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

- (a) in the case of sickness benefit, benefit in respect of any day more than three days before the date of which incapacity for work is certified, subject to regulation 13;
- (b) in the case of maternity grant, the grant;

- (c) in the case of maternity allowance, benefit in respect of any period before the beginning of the contribution week in which the claim is made;
 - (d) in the case of invalidity, age or survivor's benefit, benefit in respect of any period more than three months before the date on which the claim is made;
 - (e) in the case of funeral grant, the grant.
- (3) If in any case the claimant proves—
- (a) that on a date earlier than the date on which the claim was made, apart from satisfying the condition of making a claim, he was entitled to the benefit; and
 - (b) that throughout the period between the earlier date and the date on which the claim was made there was good cause for delay in making such claim,

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

- (4) (a) No sum shall be paid 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 therefor is duly made.
- (b) No sum shall be paid by way of funeral grant if the claim therefor 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

Entitlement

9. Subject to the provisions of these Regulations, sickness benefit shall be awarded to an insured person who is rendered incapable of work as a result of such specific disease or of bodily or mental disablement other than employment injury; and for this purpose an insured person shall be treated as incapable of work because he is under observation by reason of being a carrier, or his having been in contact with a case of infectious disease.

No entitlement after age 60

10. No insured person shall be awarded or paid sickness benefit on or after attaining the age of 60 years.

Support of claim

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

Conditions to be satisfied

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

- (a) had paid not less than 26 weekly contributions; and
- (b) had paid or been credited with not less than eight weekly contributions;
- (c) In the case of registered Waterfront Workers for the purpose of Sickness Benefit, one week contribution in the eight weeks preceding the date of illness, shall be deemed to fulfil the contribution requirement for Sickness Benefit, as specified in (b) above;

in the period of thirteen contribution weeks immediately preceding the contribution week in which the first day of incapacity for work occurred.

Commencement

13. An insured person who is awarded 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 from the fourth day of any such period:

Provided that for the purpose of computing the first three days of any continuous period of incapacity for work, public holidays shall be included but not Saturdays and Sundays.

Duration

14. Subject to the provisions of these Regulations, sickness benefit shall be paid in respect of each day (excluding Saturdays and Sundays) as long as incapacity for work continues, subject to a maximum of 26 weeks in any one continuous period of incapacity for work:

Provided that any two or more periods of incapacity for work not separated by more than eight weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of those periods.

Rate of benefit

15. (1) The weekly rate of sickness benefit shall be 60% of the sum of the insurable earnings or credits of the insured person in the thirteen contribution weeks immediately preceding the contribution week in which incapacity for work occurred or was deemed to have occurred divided by thirteen.

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

B. Maternity Benefit

Entitlement

16. Subject to the provisions of these Regulations, maternity allowance and maternity grant shall be awarded to a woman who is an insured person, in respect of her pregnancy and confinement and maternity grant shall be awarded to a woman who is the wife of an insured person in respect of her confinement:

Provided that if a woman is at the same time herself an insured person and the wife of an insured person maternity grant shall be awarded to her either as the insured person or as the wife of the insured person and not in both incapacities.

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.

Conditions to be satisfied

18. The conditions to be satisfied in respect of maternity benefit shall be that the—

- (a) maternity benefit grant shall be payable to a woman who has been confined if—
 - (i) not less than 26 contribution weekly contributions have been paid or credited by her or her husband in the 52 weeks immediately preceding the confinement; or
 - (ii) she is an age or invalidity pensioner or her husband is an age or invalidity pensioner;
- (b) maternity allowance shall be payable if a woman has been insured for 30 weeks and if not less than 20 weekly contributions have been paid by her in respect of insured persons employment in the 30 weeks immediately preceding the contribution week in which occurs the day which is six weeks before the expected week of confinement, or in which occurs the day from which the allowance is claimed, whichever is the later.

(Amended by S.R.O. 12/1996)

Certificate of confinement

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 her confinement as he may require.

Duration of maternity allowance

20. (1) Maternity allowance shall be payable for a maximum period of twelve weeks.

(2) Subject to paragraph (1) the period during which maternity allowance is payable—

- (a) shall commence not earlier than six weeks before the week of expected confinement; and
- (b) shall terminate not later than eleven weeks after the week of actual confinement.

(Substituted by S.R.O. 17/1997)

Rate of benefit

21. The rate of maternity grant shall be \$400 and the weekly rate of maternity allowance shall be 60% of the sum of the insurable earnings or credits of the insured person in the 30 weeks specified in regulation 18(2) divided by 30, and the daily rate shall be the weekly rate divided by five.

(Amended by S.R.O. 12/1996)

C. Invalidity Benefit

Entitlement

22. Subject to the provisions of these Regulations, invalidity benefit shall be awarded to an insured person who is an invalid.

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 incapacity for work.

Conditions to be satisfied

24. Invalidity pension shall be awarded if—

- (a) the insured person has not attained the age of 60 years; and
- (b) not less than 150 weekly contributions have been paid by the person.

Invalidity grant

25. Subject to the provisions of these Regulations an insured person who does not satisfy the provisions of regulation 24 but who—

- (a) is an invalid;
- (b) has not attained the age of 60; and
- (c) has paid not less than 50 weekly contributions,

shall be entitled to an Invalidity grant.

Duration

26. Subject to the provisions of these Regulations, invalidity pension shall be paid for so long as invalidity continues, but shall cease at the age of 60 when it shall be converted to an age pension of the same amount.

Rate of Benefit

27. (1) The annual rate of invalidity pension shall be 30% of the average weekly insurable earnings of the insured person to which shall be added $\frac{1}{2}\%$ of his annual insurable earnings for each complete 25 weekly contributions paid or credited to him in excess of the first five hundred such contributions.

(2) For the purposes of this regulation, the average weekly insurable earnings shall be the sum of the insurable earnings or credits of the insured person in the three best contribution years out of the fifteen contribution years immediately preceding the contribution year in which the invalidity occurs, or such lesser number being the total number of contribution years since the relevant day or since the date of the insured person's entry into insurance, divided by the number of weeks in which contributions have been made or credited.

(3) For the purpose of calculating the number of credited weekly contributions, additional special weekly contributions shall be credited to the insured person at the rate of 25 weekly contributions for each full year that the insured person was under the age of 60 years when he became invalidated.

(4) The rate of invalidity pension shall not exceed 60% of the insured person's average annual insurable earnings and shall not be less than \$40 a week.

(Substituted by S.R.O. 12/1996)

Invalidity grant to be a lump sum

28. (1) The amount of invalidity grant shall be a lump sum equal to three times the average insurable weekly earnings of the insured person for each completed 25 contributions paid by or credited to him. *(Substituted by S.R.O. 12/1996)*

(2) Average insurable weekly earnings for the purpose of this regulation means the sum of the last 50 weekly insurable earnings or credits of the insured person prior to the onset of incapacity, divided by 50.

D. Age Benefit

Age pension: Entitlement and conditions to be satisfied

29. (1) An insured person shall be awarded an age pension where he has attained the age of 60 years and has paid less than the number of weekly contributions specified in paragraph (2).

(2) The number of weekly contributions which entitles an insured person to an age benefit depends on the age of the insured person on the appointed day in accordance with the following table—

<i>Age on appointed day</i>	<i>Required No. of paid contributions</i>
50 and over	150
49	175
48	200
47	225
46	250
45	275
44	300
43	325
42	350
41	375
40	400
39	425
38	450
37	475
36 and under	500

(3) A person who is entitled to an age pension under paragraph (1) may elect to postpone the receipt of that pension and continue to contribute to the Fund.

(4) Where a person elects to postpone an age pension under paragraph (2), he shall notify the Director of his election, and the probable date from which he will accept the pension.

(5) Where a person exercises the option set out in paragraph (2) and continues to contribute to the Fund the expression 'age of 60' in regulations 10, 24, 25 and 26 shall be construed with appropriate modifications.

(Substituted by S.R.O. 12/1996)

Duration of age pension

30. An age pension is payable from the date when the insured person becomes entitled to the benefit, or elects to accept the benefit under regulation 29, until death.
(Substituted by S.R.O. 12/1996)

Rate of age pension

31. (1) The annual rate of age pension shall be 30% of the average weekly insurable earnings of the insured person, to which shall be added ½% of his average

weekly insurable earnings for each complete 25 weekly contributions paid by or credited to him in excess of the first 500 such contributions:

Provided that in no case shall age pension be less than \$69.92.

(1A) A 10% increase shall be granted to the maximum pension paid to all Pensioners, whose pensions were awarded prior to 2001. (*Inserted by S.R.O. 3/2004*)

(2) For the purposes of this regulation, the average weekly insurable earnings shall be the sum of the insurable earnings or credits of the insured person in the three best contribution years out of the fifteen contribution years immediately preceding the contribution year in which the age pension becomes payable, or such lesser number being the total number of contribution years since the relevant day or since the date of the insured person's entry into insurance, divided by the number of weeks in which contributions have been made or credited.

(3) Where a person elects to postpone the receipt of an age pension under regulation 29(2) the year in which the age pension becomes payable shall, for the purpose of paragraph (2) of this regulation, be the year notified to the Director under regulation 29(3), or the year in which that person ceases to contribute to the Fund, whichever is later in time.

(*Substituted by S.R.O. 12/1996*)

Age grant: Entitlement and conditions

32. (1) Subject to the provisions of these Regulations age grant shall be payable to an insured person who does not satisfy the requirements set out in regulation 29 but who—

(a) has attained the age of 60 years; and

(b) has paid not less than 50 weekly contributions.

(2) The amount of age grant shall be a lump sum equal to three times the average insurable weekly earnings of the insured person for each complete 25 weekly contributions paid by, or credited to him. (*Substituted by S.R.O. 12/1996*)

(3) For the purposes of this regulation, average insurable weekly earnings means the sum of the last 50 weekly insurable earnings or credits prior to age 60 divided by 50.

Rate of age pension for those over age 50 on appointed day

33. (1) The annual rate of age pension is 16% of the average annual insurable earnings of the insured person plus an additional 1% of his average annual insurable earnings for each complete 25 weekly contributions paid or credited to him in excess of the first 150 weekly contributions. (*Substituted by S.R.O. 12/1996*)

(2) The annual rate of age pension payable in accordance with regulation 33(1) shall be—

<i>No of weekly contributions paid or credited</i>		<i>Rate of Pension as a percentage of average insurable earnings</i>
150	.....	16
200	.....	18
250	.....	20
300	.....	22
350	.....	24
400	.....	26
450	.....	28

Provided that—

- (a) where the total contributions paid or credited are 500 or more, the insured person shall be deemed to have qualified under the provision of paragraph 29 of these Regulations;
- (b) in no case shall an age pension awarded under the provisions of this regulation be less than \$20 a week.

(3) For the purposes of this regulation, average annual insurable earnings shall be calculated in accordance with paragraph (2) of regulation 31 and the weekly rate of age pension shall be calculated in accordance with paragraph (3) of the same regulation.

E. Funeral Grant

Entitlement

34. (1) A funeral grant shall be awarded on the death of a person who was—

- (a) an insured person;
- (b) the spouse of an insured person;
- (c) a dependant child of an insured person; or
- (d) an age or invalidity pensioner.

(2) Funeral grant shall be paid to any person who has met, or to any person who gives the Director an undertaking in writing to meet, the whole or part of the deceased funeral expenses, so, however, that any payment of funeral grant to a person by virtue of this paragraph shall be subject to the condition that if that person fails to carry out any such undertaking he shall repay to the Fund any funeral grant so paid to him.

(3) Where—

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

- (b) the person who has met or is liable to meet the cost of the funeral of the deceased person cannot be found; or
- (c) the cost of the funeral was less than the amount of the benefit,

the benefit or, as the case may be, the remainder thereof, shall be paid to such person or persons as the Director in his discretion may decide.

(Amended by S.R.O. 12/1996)

Conditions to be satisfied

35. Funeral grant shall be awarded only if the insured person had been an insured person for not less than 26 contribution weeks and had paid not less than 26 weekly contributions.

Support of claim

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

Amount of grant

37. The amount of funeral grant shall be—

- (a) \$2,000 for an insured person;
- (b) \$1,000 for the spouse of an insured person and for the spouse of an age or invalidity pensioner;
- (c) \$1,000 for a dependant child (of an insured person or of an age or invalidity pensioner) over nine years of age;
- (d) \$750 for a dependant child (of an insured person or of an age or invalidity pensioner) of nine years or under; and
- (e) \$1,000 for an age or invalidity pensioner.

(Substituted by S.R.O. 12/1996)

F. Survivor's Benefit

Entitlement

38. (1) Subject to the provisions of these Regulations survivor's benefit shall be awarded to the widow or a widower of a deceased insured person.

(2) Where there is an unmarried child, including an adopted child, step-child or a child born out of wedlock, who at the date of death of the insured person was living with or was wholly or mainly maintained by the deceased person, survivor's benefit shall be payable in respect of such child or children to the widow or widower, or such other persons as the Director shall decide.

(3) Where there is no surviving parent or step-parent survivor's benefit under the provisions of paragraph (2) of this regulation 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.

(4) A widow who at the date of her husband's death had been married to him for not less than three years and was—

- (a) over 50 years of age, shall be awarded a survivor's pension for life, or a survivor's grant; or
- (b) incapable of self-support by reason of invalidity, shall be awarded a survivor's pension for so long as invalidity continues, or a survivor's grant. If invalidity ceases and the widow is then over 50 years of age, any survivor's pension then in payment shall, subject to these Regulations, be payable for life; or
- (c) under 50 years of age and had a child or children eligible for survivor's benefit under the provisions of paragraph (2) of this regulation, shall be awarded a survivor's pension, or a survivor's grant:

Provided that if she is awarded survivor's pension it shall be payable until the youngest eligible child attains the age of fifteen years, or if continuing in full-time education, eighteen years, and if when the said youngest child ceases to be eligible under the provisions of these Regulations the widow is then over 50 years of age, the pension shall be payable for life; or

- (d) pregnant and under the age of 50 years, shall be awarded a survivor's pension or survivor's grant:

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

- (e) under the age of 50 years, had no children eligible under the provisions of sub-paragraph (c) of this regulation, was not incapable of self-support by reason of invalidity, or, being over 50 years of age had been married to the deceased insured person for less than three years, 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 shall cease on her remarriage or if she cohabits with a man as his wife.

(6) A widower shall be entitled to survivor's benefit if at the date of his wife's death he had been married to her for not less than three years; and—

- (a) is over 50 years of age, in which case he shall be awarded a survivor's pension for life, or a survivor's grant; or
- (b) is incapable of self-support by reason of invalidity, in which case he shall be awarded a survivor's pension for so long as the invalidity

continues, or a survivor's grant, and if when the invalidity ceases the widower is over 50 years of age, any survivor's pension then in payment shall be payable for life; or

- (c) is under 50 years of age and has a child or children eligible for survivor's benefit under the provisions of paragraph (2) in which case it shall be payable until the youngest child attains the age of sixteen years, or if continuing in full-time education, eighteen years, and if when the youngest child attains the age of sixteen years or eighteen years as the case may be the widower is over 50 years of age, the pension shall be payable for life.

(7) Where a widower is unable to satisfy any of the requirements specified in paragraph (6) he shall be awarded a survivor's pension for one year, or a survivor's grant.

(8) A survivor's pension payable to a widower shall cease on his re-marriage or if he cohabits with a woman as his wife.

(9) A survivor's pension payable under the provisions of paragraphs (2) and (3) of this regulation 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 sixteen years, or if continuing in full time education under the age of eighteen years.

Provided always that if the widow or widower as the case may be themselves cease to be eligible for survivor's pension under the provisions of these Regulations then the survivor's pension in payment in respect of a child or children shall also cease.

(Amended by S.R.O. 12/1996 and Act 4 of 2003)

Conditions to be satisfied

39. (1) Subject to these Regulations survivor's pension shall be payable—

- (a) if the deceased insured person was, at the date of his death, in receipt of age or invalidity pension; or
- (b) he had paid 150 weekly contributions.

(2) If the deceased insured person had not paid 150 weekly contributions but had paid 50 contributions, survivor's benefit shall be payable as a grant.

Rate of benefit

40. (1) The rate of survivor's pension payable to a widow or widower under the provisions of these Regulations shall be 50% 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 an age or invalidity pension in accordance with paragraph (1) of this regulation, the survivor's pension payable to the widow or widower shall be 50% of the age pension earned up to the date of death:

Provided that if the deceased insured person had paid 150 weekly contributions but had not paid or been credited with 500 weekly contributions the age pension earned shall be deemed to be 30% of his average annual insurable earnings.

(3) The rate of survivor's pension payable in respect of a child shall be 25% of the age pension or invalidity pension payable to the deceased insured person at the date of his death, save that if the child is an orphan the amount payable shall be 50%.

(4) If the deceased insured person was not in receipt of an age or invalidity pension the survivor's pension payable in respect of a child shall be 25% or 50% as the case may be, of the age pension earned up to the date of death.

(5) For the purposes of calculating the age pension earned up to the date of death special weekly contributions shall be credited to the deceased insured person at the rate of 25 weekly contributions for each full year that the deceased insured person was under the age of 60 when death occurred.

(6) The amount of survivor's grant payable shall be—

(a) to a widow or widower 50%;

(b) to a child one third; and

(c) to an orphan two thirds,

of the age grant calculated in accordance with paragraphs (2) and (3) of regulation 32 save that for the words "prior to age 60" appearing in paragraph (3) of regulation 32 there shall be substituted the words "prior to the date of death of the insured person".

(7) The minimum weekly rate of survivors pension shall be \$10.

(8) The maximum amounts payable under this regulation shall not exceed the amount of age or invalidity pension of the deceased insured person or the amount of age pension earned up to the date of death.

(9) Where the minimum rate of survivor's pension stipulated in paragraph (7) becomes payable to one or more survivors, and by reason thereof the amount of age or invalidity pension of the deceased insured person, or the amount of age pension earned up to the date of death is exceeded, the provisions of paragraph (8) shall not apply.

(Substituted by S.R.O. 12/1996)

Insufficiency of amount available for distribution to children

41. (1) Where the maximum amount available for the payment of survivor's pensions or grants to the children of a deceased insured person is insufficient to enable payment to be made in respect of all the children in accordance with regulations 38 and 40 and a question is raised as to which of several children should be awarded such pensions or grants, then the question shall be referred to the Board for decision in accordance with the Determination of Questions Regulations.

(2) Where survivor's pensions or grants have been awarded in circumstances for which paragraph (1) provides and in accordance with that paragraph, and there is any other child of the deceased insured person who has not been awarded a survivor's pension or grant because of the provisions of that paragraph, then any such grant, in accordance with regulations 38 and 40 at any time when the total amount of survivor's

pensions or grants being paid in respect of the children of the deceased insured person falls below the maximum amount; and in any such case the provisions of paragraph (1) shall apply.

PART IV

PAYMENT OF BENEFIT

Time and manner of payment of benefit

42. Any benefit shall be paid in accordance with the award thereof as soon as is reasonably practicable after such an award had been made, may be paid in cash, cheque or payable 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 intervals as the Board may direct, either generally or in respect of any class of such payments or of any beneficiary.

Information to be given when obtaining payment

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

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

44. (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 purposes of this regulation, a sum payable by way of benefit shall, subject to paragraph (4) and to regulation 51(3), 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, six months (or such longer period as may be determined by the Board in the circumstances of any particular case) after the date on which the sum became payable.
- (4) In determining when a sum is receivable under paragraph (3) the following provisions shall apply—
- (a) if a beneficiary proves that through no fault of his own he did not receive the payable order or cheque until a date later than the appropriate receivable date determined in accordance with paragraph (3), 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 the 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 therefor.
- (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 Act 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.

Beneficiaries to notify changes of circumstances

45. (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.

(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 such benefit continue to be satisfied.

Person unable to act

46. (1) In the case of any beneficiary, or of any person who is alleged to be entitled to benefit, or by whom or on whose behalf a claim of benefit has been made, being a child or a person unable for the time being to act, where no other person or authority has been duly appointed under the law to have charge of such person or his estate, the Board may, upon written application being made to it, appoint a person to make or exercise on behalf of the child or person who is unable to act any claim or

right to which the child or person may be entitled under the Act and any Regulations made thereunder, and to receive and deal with any sums payable on behalf of such child or person:

Provided that—

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

(2) Anything required by these Regulations to be done by or to any person who is a child or who is for the time being unable to act may be done by or to any person or authority duly appointed under the law to have charge of his estate, or by or to the person appointed under this regulation to act on behalf of such person, and this receipt of any person so appointed shall be a good discharge to the Board and the Fund for any sum paid.

Payment on death

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

(2) Subject to paragraph (5), 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 45 shall apply to any such payment or distribution:

Provided that—

- (a) the receipt of 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 so paid; and
- (b) 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 thereof by paying the sum or part thereof to a person over that age (who need not be a person specified in this paragraph) who satisfies the Board that he will apply the sum so paid for the benefit of the person under the age of eighteen years.

(3) Subject to paragraph (5), 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 distributed amongst such persons as are mentioned in paragraph (2), and the provisions of regulation 44 and of paragraph (5) shall apply to any payment or distribution:

Provided that, for the purposes of regulation 44(1), the period of six months shall be calculated from the date on which the sum was receivable by any such person and not from the date on which it was receivable by the deceased, and for these purposes the reference in regulation 44(3)(b) to the date on which the sum became payable shall be construed as a reference to the date of application to the Board made in accordance with paragraph (4).

(4) Paragraphs (2) and (3) 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.

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

PART V

MISCELLANEOUS

Credited contributions

48. (1) For every contribution week for the whole of which an insured person receives sickness benefit or maternity allowance a contribution shall be credited to that person without actual payment thereof.

(2) The provisions of paragraph (1) shall apply in the case of an insured person who, but for the provision of regulation 13, would have been entitled to receive sickness benefit.

(3) A credited contribution shall, subject to these Regulations, be valid for sickness, maternity, invalidity, survivors or age benefit and shall be at a level of the weekly wages corresponding to, or most closely corresponding to, those on the basis of which the sickness or maternity allowance was paid:

Provided that where sickness or maternity allowance was payable at different rates during a contribution week, the credited contribution for that week shall be at the level of the weekly wages corresponding to, or most closely corresponding to, the higher or highest level of weekly wages on the basis of which such benefit was paid.

Payment of contributions

49. If, before the end of any contribution year, the maximum amount of contributions shall have been paid by or on behalf of, or shall have been credited by

virtue of regulation 48 to, any insured person, being the maximum amount prescribed by the Schedule to the Contributions Regulations, then for the purposes of these Regulations contributions shall be deemed to have been paid by or on behalf of that person for each contribution week in that year during which he was an employed person and that person shall be deemed to have been an insured person for each such week.

Entitlement to more than one benefit

50. Notwithstanding that a person is entitled to two or more benefits under the Act at the same time, only one benefit shall be payable to such person. 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. But if the last mentioned benefit ceases to be payable then nothing shall prevent the award or reinstatement of another benefit to which such person is entitled under the Act—

Provided that—

- (a) a person who has already received an invalidity grant or grants shall be entitled to a further age grant based on contributions paid or credited not already taken into account for the said invalidity grant or grants received;
- (b) survivor's grant or grants may be paid to or in respect of those otherwise entitled notwithstanding that the relevant deceased insured person had in his lifetime received an invalidity grant or invalidity grants or age grant, but the survivor's grant or grants shall be based only on contributions paid or credited and not already taken into account for the said invalidity grant or grants or age grant received;
- (c) nothing in this regulation shall preclude the full duplication of sickness benefit or maternity benefit with survivor's benefit;
- (d) any other benefit may be duplicated in full with funeral grant.

Beneficiaries abroad

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

(2) A beneficiary shall not be disqualified from receiving sickness or maternity benefit by reason of being temporarily absent from Montserrat for the specific purpose of being treated for any illness which commenced before he left Montserrat during 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 Montserrat.

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

Payment of benefit to beneficiaries abroad

52. Any benefit which is paid to a beneficiary by virtue of regulation 51 shall be paid in Montserrat to such representative acting for and on behalf of the absent beneficiary as may be approved by the Director.

Deferment of claims and forfeiture

53. (1) If any 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 or of the Determination of Questions 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.

(2) If, in respect of any incapacity, or expected or actual confinement, a person awarded sickness, maternity or invalidity benefit, as the case may be—

- (a)* without good reason behaves in any manner calculated to retard his or her recovery or fails without good cause to answer any reasonable enquiries by an officer of the Board directed to ascertain whether he or she is doing so;
- (b)* is absent from Montserrat 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 to him by the Director which requires him or her to attend for and submit to medical or other examination; or
- (e)* fails to comply with the requirements of regulation 43, he or she shall be liable to forfeit that benefit for such period not exceeding six weeks as the Director may determine.

Persons undergoing imprisonment or detention

54. (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.

(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, it may authorise 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 period as the Board may allow, having regard to the particular circumstances of the case.

Offences

55. If any person contravenes or fails to comply with any requirement of these Regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$500 or, where the offence consists of continuing any such contravention or failure after conviction therefor, \$500 together with a further \$50 for each day on which it is so continued.

SCHEDULE

(Regulation 23)

MEDICAL CERTIFICATE

1. In this Schedule, unless the context otherwise requires—

“medical practitioner” means a medical practitioner not being the insured person or the husband or wife of the insured person.

2. A certificate shall be either on a form supplied by the Board or on such other form substantially to the like effect as the Director may accept.

3. After a certificate based on an examination has been given, no further certificates based on that examination shall be furnished other than a certificate to replace the original certificate which has been lost or mislaid, and in that case the form shall be clearly marked “Duplicate.”

Sickness or Invalidity

4. Every certificate of sickness or invalidity shall be in writing in ink or other indelible substance, and shall contain the following particulars—

- (a) the insured person’s name;
- (b) the date of the examination on which the certificate is based;
- (c) a concise statement of the nature of the disease or disablement by which the insured person is, in the practitioner’s opinion, at the time rendered incapable of work;
- (d) the date on which the certificate is given;
- (e) the address of the practitioner,

and shall bear opposite the words “Doctor’s signature,” the signature of the certifying practitioner written after there have been entered on the certificate the insured person’s name and the statement of the disease or disablement.

5. 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 to the insured person of the precise cause would be prejudicial to his well-being, the certificate may contain a less precise statement.

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

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

(3) In computing any period of time in relation to any certificate given under this regulation, Saturday and Sunday shall not be disregarded.

Confinement

7. Every certificate of confinement or expected confinement shall be in writing in ink or other indelible substance and shall be signed by a medical practitioner or a midwife attending the woman.

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

- (a) the woman's name;
- (b) in the case of a certificate of 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;
- (c) the date on which the certificate is given;
- (d) the address of the practitioner or the midwife,

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

DETERMINATION OF QUESTIONS REGULATIONS

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DETERMINATION OF QUESTIONS REGULATIONS – SECTION 35

(S.R.O. 23/1987)

Commencement

[1 November 1987]

Short title

1. These Regulations may be cited as the Determination of Questions Regulations.

PART I**PRELIMINARY****Interpretation**

2. For the purpose of these Regulations—

“**Act**” means the Social Security Act;

“**adjudicating authority**” means a medical board or an appeal tribunal;

“**appeal tribunal**” means an appeal tribunal constituted under regulation 7;

“**applicant**” means for the purpose of Part II any person who has made application to the Board for determination of a question to which Part II relates;

“**appointed day**” means the day appointed by the Governor in Council pursuant to section 51 of the Act as the appointed day for the purpose of section 18 of the Act;

“**Board**” means the Social Security Board;

“**claimant**” means a person who has claimed benefit and includes, for the purposes of Part II, a person whose right to be exempted from liability to pay or to be credited with, a contribution is in question;

“**Director**” means the Director, Social Security;

“**disablement grant**” means a disablement benefit paid or payable as the case may require in the form of a grant;

“**disablement pension**” means a disablement benefit paid or payable as the case may require in the form of a pension;

“**disablement question**” means any question set out in regulation 18;

“**grant**” means invalidity, age, survivor’s or funeral grant;

“**hearing**” means oral hearing;

- “**medical board**” means, medical board constituted under regulation 21;
- “**member**”, in relation to a medical board, includes the Chairman thereof;
- “**Office**” means any office appointed as an office for the purposes of the Act of these Regulations;
- “**Prescribed Diseases Schedule**” means Part III of the Schedule to the Employment Injury Regulations;
- “**Question**” includes, for the purposes of Part III, a claim for benefit;
- “**relevant accident**” and “**relevant injury**” have the meanings respectively assigned to them by regulation of the Employment Injury Regulations;
- “**Reserved Question**” means any question set out in regulation 3.
- And other expressions shall have the same meanings as in the Act.

PART II

DETERMINATION OF QUESTION BY BOARD

Questions for determination by the Board

3. The following questions (hereinafter in these Regulations referred to as “reserved questions”) arising under or in connection with the Act shall be determined by the Board who is subject to the provisions of these Regulations—

- (a) as to whether a person is or was employed in insurable employment pursuant to section 18(1) of the Act;
- (b) as to the class of insured person in which a person is to be included;
- (c) as at what rate contributions are or were payable in accordance with Regulations made under the Act, or any question otherwise relating to a person’s contributions;
- (d) as to who is or was liable for payment of contributions as the employer of any insured person;
- (e) as to which child or children should be granted survivor’s or death benefit.

Procedure for determination of questions by the Board

4. (1) Any person desiring to obtain the decision of the Board on any question mentioned in regulation 3 shall deliver or send to the Board an application for the purpose in writing in a form approved by the Board and shall furnish such particulars as the Board may require for the purposes of the consideration and determination of any such question.

(2) The Board shall take steps to bring any such particulars to the notice of any person appearing to it to be interested therein and to obtain from such person such particulars within such time and in such form as it considers reasonably necessary for the proper determination of the question.

(3) The Board may, if it thinks fit, before determining the question appoint a person to hold an inquiry into the matter and to report it thereon and any person so appointed may by summons require persons to attend at any such inquiry to give evidence or to produce documents reasonably required for the purposes of the inquiry and may take evidence on oath and for that purpose administer oaths.

(4) Reasonable notice of the date and place of the holding of such an inquiry shall be given to the applicant and to any person notified of the application in accordance with paragraph (2).

(5) The applicant and any person appearing to the Board or to the person holding the inquiry to be interested in the application shall be entitled to attend and be heard at the inquiry, and to be represented by any other person, and the procedure thereat shall, subject to this regulation, be such as the person holding the inquiry shall determine.

(6) The Board shall give notice in writing of its decision to the applicant and to any person appearing to it to be interested therein and may publish its decision in such manner as it thinks fit.

Reference to High Court by Board of questions of law; appeals against decisions of Board on questions of law

5. (1) Any question of law arising in connection with the determination by the Board of any such question as is mentioned in regulation 3 may, if it think fit, be referred by the Board for decision to the High Court.

(2) In the event of the Board determining in accordance with paragraph (1) to refer any question of law for the High Court, it shall send notice in writing of its intention so to do to the applicant and to any other person appearing to it to be interested therein.

(3) Any person aggrieved by the decision of the Board on any question of law which is not referred in accordance with paragraph (1), may in accordance with rules of court made pursuant to section 35(2)(b) of the Act, appeal from that decision to the Court, and the applicant and any other person appearing to the Board to be interested shall, on request, be furnished with such a statement of the grounds of the decision as well to enable them to determine whether any question of law has arisen upon which they may wish to appeal.

(4) Without prejudice to the rights of any other person, the Board shall be entitled to appear and be heard on any such reference or appeal.

Review of decision of the Board

6. (1) The Board may, on new facts being brought to its notice or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review a decision given by it in accordance with this Part:

Provided that any such decision shall not be reviewed while an appeal is pending against the decision of the Board on a question of law arising in connection therewith, or before the time for appealing has expired.

(2) The provisions of regulation 5 shall apply in relation to a decision on review as they apply to the original determination or decision.

PART III

DETERMINATION OF CLAIMS AND QUESTIONS BY THE DIRECTOR OR APPEAL TRIBUNAL

Submission of questions to Director

7. (1) The following questions, that is to say—
- (a) any question as to the right to benefit; and
 - (b) any other question arising under or in connection with the Act, not being a reserved question or a disablement question, shall be submitted to the Director, who shall consider the question, and, so far as practicable, dispose of it in accordance with these Regulations within fourteen days from the date when it was submitted to him.
- (2) If on consideration of a question the Director is of the opinion that neither a reserved question nor a disablement question arises then—
- (a) if he is satisfied that the question ought to be determined wholly in favour of the claimant, he may determine the question accordingly;
 - (b) in so far as he is satisfied he may either—
 - (i) refer the question (so far as is practicable within fourteen days from the date on which it was submitted to him) to an appeal tribunal as laid down by the Schedule to these Regulations for its decision; or
 - (ii) himself determine the question in whole or in part adversely to the claimant.
- (3) Where the Director refers a question to an appeal tribunal in accordance with paragraph (2) notice in writing of such reference shall be given to the claimant.

Declaration that accident is an employment accident

8. (1) Where in connection with any claim for benefit, it is determined that the relevant accident was or was not an employment accident, an express declaration of that fact shall be made and recorded and (subject to the provisions of paragraph (3) a claimant shall be entitled to have the question whether the relevant accident was an employment accident determined notwithstanding that his claim is disallowed on other grounds.

(2) Subject to paragraph (3) any person suffering personal injury by accident shall be entitled, if he claims the accident was an employment accident to have the question determined, and a declaration made and recorded accordingly notwithstanding that no claim for benefit has been made in connection with which the question arises, and the provisions of this Part shall apply for that purpose as if the question had arisen in connection with a claim for benefit.

(3) Notwithstanding anything in paragraphs (1) and (2), the Director or an appeal tribunal, as the case may be, may refuse to determine the question whether an accident was an employment accident if satisfied that it is unlikely that it will be necessary to determine the question for the purposes of any claim to benefit; but any such refusal of the director shall be subject to appeal to the appeal tribunal.

(4) Subject to the provisions of this Part as to appeal and review, any declaration under this regulation that an accident was or was not an employment accident shall be conclusive for the purposes of any claim for benefit in respect of that accident whether or not the claimant is the person at whose instance the declaration was made.

(5) For the purposes of this regulation, an accident whereby a person suffers personal injury shall be deemed in relation to him, to be an employment accident if—

- (a) it arises out of and in the course of his employment;
- (b) that employment is insurable employment; and
- (c) payment of benefit is not precluded because the accident happened while he was outside Montserrat,

and reference in the following provisions to an employment accident shall be construed accordingly.

(6) Regulation 13 shall apply to paragraphs (1) to (5) but only, if the Director or appeal tribunal, as the case may be, is or are satisfied by fresh evidence that the decision under those paragraphs was given in consequence of any wilful non-disclosure or misrepresentation of a material fact and subject to the provisions of this paragraph any decision under paragraphs (1) to (5) shall be final.

Appeals to appeal tribunal

9. (1) If the Director has determined a question in whole or in part adversely to the claimant, the claimant shall subject to this regulation have a right to appeal in respect of the decision to the appeal tribunal, whose decision shall be final. The claimant shall be notified in writing of the decision and the reasons therefor and of his right of appeal therefrom:

Provided that where a reserved question or a disablement question has arisen in connection with the decision of the Director and has been determined by the proper authority, and the Director certifies that the decision on that question is the sole ground of his decision, no appeal shall lie without the leave of the Chairman of the appeal tribunal.

(2) An appeal against a decision of the Director must be brought by giving notice of appeal at the office of the Board within 21 days after the date of the decision

or within such further time, not exceeding four months, as the Chairman of the appeal tribunal may allow.

(3) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

Time and place of hearings before appeal tribunal

10. (1) Reasonable notice of time and place of hearing before the appeal tribunal shall be given to the claimant, and to any other person who may appear to the chairman of the tribunal to be interested, and, except with the consent of the claimant, the appeal tribunal shall not proceed with the hearing of any case unless such notice has been given.

(2) 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 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 they think proper.

Hearings before appeal tribunal

11. (1) Every hearing by an appeal tribunal shall be in public except in so far as the chairman of the tribunal may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) The following persons shall be entitled to be heard at the hearing of any case by an appeal tribunal—

- (a) the claimant;
- (b) the Director,

and any person appearing to the tribunal to be interested shall have the right to be present notwithstanding that the hearing of the case is not in public.

(3) Any person who by virtue of this regulation has the right to be heard at the hearing of a case by an appeal tribunal may be represented at the hearing by some other person (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 he represents is entitled under these Regulations.

(4) Any person who exercises the right conferred by this regulation to be heard at the hearing may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing.

(5) If it appears to the appeal tribunal that any appeal under this regulation involves a question of law or fact of special difficulty, it may direct that in dealing with the appeal or any part thereof, it shall have the assistance of an assessor or assessors.

(6) For the purposes of arriving at their decision, or discussing any question of procedure an appeal tribunal may, notwithstanding anything in this regulation, order

all persons not being members of the tribunal other than an officer of the Board acting as clerk to the tribunal to withdraw from the sitting of the tribunal.

Decisions of appeal tribunal

12. (1) An appeal tribunal shall—

- (a) record in writing in such form as may from time to time be approved by the Board all its decisions (whether on an appeal or on a reference from the Director); and
- (b) include in the record of every decision (which shall be signed by all the members of the tribunal) a statement of the reasons for its decision including its findings on all questions of fact material thereto.

(2) Where the tribunal is unable to reach an unanimous decision on any case, the decision of the majority of the members thereof shall be the decision of the tribunal.

(3) As soon as may be practicable, a copy of the record of its decision made in accordance with this regulation shall be sent to the claimant and to the Director and to any other persons who appear to the appeal tribunal to be interested.

Review of decisions of Director and appeal tribunal

13. (1) Any decision under this Part of the Director or appeal tribunal may be reviewed at any time by the Director, or on a reference from the Director, by an appeal tribunal. The Director or the Appeal Tribunal shall review if—

- (a) he is or is satisfied, but not without fresh evidence of the case of a decision of the appeal tribunal, that the decision was given in ignorance of, or was based on a mistake as to some material fact;
- (b) there has been any relevant change of circumstances since the decision was given; or
- (c) the decision was based on the decision of any reserved question or disablement question and the decision of that question has been revised.

(2) A question may be raised with a view to such a review by means of an application in writing to the Director stating the grounds of that application.

(3) On receipt of any such application, the Director shall proceed to deal with or refer any question arising thereon in accordance with the Act and these Regulations.

(4) Any decision given on a review under this regulation, and any refusal to review under this regulation, shall be subject to this Part and, subject to the necessary modifications shall apply in relation to any decision given on a review as they apply to the original decision of a question.

Interim payments

14. (1) Subject to these Regulations, benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award is pending.

- (2) Where it appears to the Director that a question has arisen whether—
- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled; or
 - (b) an award of 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.

Review of decisions involving payment of increase of benefits other than grants

15. (1) Subject to these Regulations, where on review a decision is revised so as to make the benefit payable, or to increase the rate of benefit, the decision on review shall have effect as from the date of the application for the review:

Provided that, subject to paragraph (2), if in any case the claimant proves that on a date earlier than the date on which the application for the review was made, he was (apart from satisfying the condition of making a claim therefor) entitled to benefit, he shall not be disqualified by virtue of the foregoing provisions of this paragraph for receiving any benefit to which he would have been entitled in respect of the period between the earlier date and the date on which the application for the review was made.

(2) Notwithstanding anything contained in this regulation, the following provisions shall have effect—

- (a) the proviso to paragraph (1) shall apply subject to the conditions that no sum on account of benefit shall be paid to any person in respect of any part of the period referred to in that proviso earlier than six months before the date on which the application for the review was made;
- (b) if the said decision on review was based on a material change of circumstances subsequent to the date from which the original decision took effect, it shall not have effect for any period before the date declared by the Director or appeal tribunal as the case may be to be the date on which such material change of circumstances took place.

(3) For the purposes of this regulation, where a decision is reviewed at the instance of the Director under regulation 13 (1), the date on which it was first decided by the Director that the decision should be reviewed shall be deemed to be the date of the application for the review.

(4) For the purposes of this regulation, “**benefit**” does not include an invalidity, age, survivor’s, funeral, maternity or disablement grant.

Requirement to adjust benefits on review

16. Where on review a decision is revised and as a result—

- (a) a person previously entitled to one benefit is awarded some other benefit in lieu thereof the decision given on the review shall direct that any payments already made on account of the benefit originally

awarded shall be treated as having been made on account of the benefit awarded by that decision;

- (b) benefit previously awarded is held to be not payable or the rate of such benefit is reduced, the decision given on the review shall require repayment to the Social Security Fund of the benefit paid in excess, unless the case is one to which paragraph (a) applies.

Action by Director and appeal tribunal on reserved and disablement questions

17. (1) If on consideration of a question the Director is of the opinion that a reserved question or a disablement question arises, he shall—

- (a) refer the reserved question for determination to the Board and the disablement question to a medical board, as the case may require, to determine the same; and
- (b) deal with any other question as if a reserved question or disablement question had not arisen:

Provided that the Director may—

- (i) postpone the reference of, or the dealing with, any question until after other questions have been determined;
- (ii) in case where the determination of any question disposes of a claim or any part thereof, make an award or decide that an award cannot be made as to the claim or that part thereof without referring or dealing with, or before the determination of, any question.

(2) This regulation shall apply to the tribunal as it applies to the Director, except that an appeal tribunal instead of themselves referring a question for determination in accordance with sub-paragraph (a) of paragraph (1) shall require it to be so referred by the Director.

PART IV

DETERMINATION OF DISABLEMENT QUESTIONS

Disablement questions to be determined by medical board

18. (1) Any of the following questions (hereinafter referred to as “disablement questions”) that is to say—

- (a) whether the relevant accident has resulted in a loss of faculty;
- (b) at what degree the extent of disablement resulting from a loss of faculty is to be assessed and what period is to be taken into account by the assessment,

shall be referred to and determined by a medical board in accordance with these Regulations.

(2) Subject to these Regulations, the decision of a medical board shall be final.

Determination of certain questions other than reserved or disablement questions

19. Where the Director so decides on a prescribed disease diagnosis or recrudescence question under and subject to the provisions of the Employment Injury Benefits Regulations that the question is one that should be referred to a medical board for its decision, it shall be so referred, and the decision of a medical board on the question shall be final.

Further medical board where extent of disablement is provisionally assessed

20. Where the case of a claimant or beneficiary for disablement benefit has been referred by the Director to a medical board for determination of the disablement questions and, on that, or any other subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be referred to a medical board not later than the end of the periods taken into account by the provisional assessment.

Constitution of medical boards

21. (1) Medical boards shall be appointed by the Board and shall except as provided in regulation 22, consist of two or more medical practitioners, of whom one shall be appointed as chairman.

(2) The members of a medical board shall hold office for such period as the Board may direct provided that any time the Board may determine the appointment of any member of a medical board.

(3) A medical practitioner shall not act as a member of a medical board for the purpose of the consideration of any case referred to the medical board if he—

- (a) is or may be directly affected by that case; or
- (b) has taken any part in such case as a medical assessor or as a medical practitioner who has regularly attended the claimant or beneficiary or to whom any question has been referred for examination and report or as an employer or as a witness.

(4) A medical board shall not determine any question referred to them if—

- (a) any member thereof is unable to be present at the consideration of any question; or
- (b) the medical board, being a medical board consisting of two members, is unable to reach a unanimous decision on any such question.

(5) In any case in which by reason of paragraph (4) a medical board is unable to determine any question which has been referred to it, the reference to that medical board shall be revoked and the questions arising in that case shall forthwith be referred to another medical board:

Provided that, in a case to which sub-paragraph (b) of paragraph (4) relates, the reference shall be to a medical board consisting of three members, whose decision, if not unanimous shall be that of the majority of such members.

Reference to single doctor of questions as to temporary disablement

22. (1) Notwithstanding anything contained in these Regulations, disablement questions may, with the consent of the claimant be referred to a single registered medical practitioner appointed by the Board instead of a medical board.

(2) Any decision on a reference made by virtue of this regulation shall have effect as if it were a decision of a medical board.

(3) Regulations 23 and 24 shall apply to the proceedings or reference to a single medical practitioner as if such practitioner were a medical board constituted in accordance with these Regulations or the chairman of the medical board as the case may be.

Notice of sitting and procedure of medical board

23. (1) Reasonable notice of the time and place at which a medical board will sit for the consideration of any case shall be given to the claimant and if, after such notice has been given, the claimant fails to appear at the sitting of the medical board, the medical board may not proceed to determine the questions referred to it without his consent.

(2) Where in any case there is before a medical board, medical advice or medical evidence relating to the claimant which has not been disclosed to him and in the opinion of the chairman of the medical board the disclosure to the claimant of that advice or evidence would be harmful to the claimant's health such advice or evidence shall not be required to be disclosed to the claimant but the medical board shall not by reason of such non-disclosure be precluded from taking it into account for the purposes of their determination of the case.

(3) The Director and the claimant shall have the right to be heard at a hearing by a medical board and may be represented by (some person duly authorised by the medical board) and for the purposes of the proceedings at such hearings any such representative shall have all the rights and power to which the person whom he represents is entitled under these Regulations.

Notice of decision of medical board

24. (1) A medical board shall in each case record its decision in writing in such form as may from time to time be approved by the Board, and shall include in such record, (which shall be signed by all members of the medical board)—

- (a) a statement of its findings on all questions of fact material to the decision; and
- (b) in a case where the decision of a medical board consisting of three persons was not unanimous, a statement that one of the members dissented and the reasons given by him for so dissenting.

(2) As soon as may be practicable, the claimant or beneficiary and the Board shall be sent written notice of the decision of a medical board, and such notice shall be in such form as may from time to time be approved by the Board and shall contain a summary of the said findings of the medical board, including, where the decision was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

PART V

APPEAL OR REFERENCE TO THE APPEAL TRIBUNAL ON A POINT OF LAW FROM A MEDICAL BOARD

Appeals and references from medical board and appeal tribunal

25. (1) Subject as hereinafter provided, an appeal shall lie to the appeal tribunal from any decision of a medical board on the ground that the decision is erroneous on a point of law at the instance of—

- (a) the claimant; or
- (b) an association of employees of which the claimant was a member at the time of the relevant accident; or
- (c) the Director.

(2) No appeal shall lie under paragraph (1) without the leave of the medical board or of the appeal tribunal and the following provisions of these Regulations shall apply as to the time within which appeals are to be brought and applications made for leave to appeal.

(3) Where any question of law arises in a case before a medical board, the medical board may refer that question to the appeal tribunal for decision.

(4) On any such appeal or reference the question of law arising from the decision of the appeal tribunal and the facts on which it arises shall be submitted for consideration in accordance with this Part and the medical board on being informed of the decision in accordance with regulation 30 on the question of law shall give, confirm or revise their decision on the case accordingly.

Further provision as to notice of decision of medical board

26. A person to whom written notice of a decision of a medical board is sent in accordance with regulation 24(2) shall be informed in writing of the conditions governing an appeal to the appeal tribunal, and there shall be supplied to him, or where he is represented by another person, to that person, a copy of the record of that decision made in accordance with regulation 24(1) if, for the purposes of an appeal, he or that other person makes a request therefor in writing at the office of the Board.

Application for leave to appeal to tribunal from decision of medical board

27. (1) Subject to paragraphs (1) to (6) of this regulation, an application for leave to appeal to the appeal tribunal from a decision of a medical board on the ground that a decision is erroneous in point of law shall be made in the first instance to a medical board—

- (a) orally at the hearing by the medical board; or
- (b) in writing within three months from the date of which the decision of the medical board was given.

(2) A person who had been refused leave to appeal by the medical board may make an application in writing for such leave to the appeal tribunal within 21 days from the date on which the decision refusing leave was given or within such further time as the appeal tribunal may for special reasons allow.

(3) Where there has been a failure to apply to a medical board for leave to appeal within the time specified in paragraph (1)(b), an application in writing for such leave may nevertheless be made to the appeal tribunal, which may, if for special reasons it thinks fit, proceed, notwithstanding such failure, to consider and determine the application.

(4) Subject to regulation 29(7) every application for leave to appeal required by these Regulations to be in writing, shall be made by giving or sending the applications to the office of the Board for transmission to the appeal tribunal or to the medical board, as the case may be, and such application shall include a statement of the point of law in respect of which it is alleged that the decision of the medical board is erroneous and on which it is wished to appeal.

(5) Where an application for leave to appeal is made to the appeal tribunal the Director shall cause to be sent to the appeal tribunal a copy of the record, made in accordance with regulation 24(1), the reason for the medical board's decision refusing leave to appeal and a copy of the record of the decision refusing such leave.

(6) Where an application in writing for leave to appeal is made by the Director, a copy of the application shall be sent to the claimant.

Reference by medical board of question of law for decision by the appeal tribunal

28. Where any question of law arises in a case before a medical board and the medical board decides to refer that question to the appeal tribunal for decision in accordance with regulation 25(3) the medical board shall cause to be sent—

- (a) to the appeal tribunal, a submission in writing signed by the Chairman of the medical board, which shall include a statement of the said question and the facts on which it arises; and
- (b) to the Director and the claimant, a copy of that submission.

Provisions as to the hearing and determination of applications for leave to appeal

29. (1) If the Director or the claimant or the association to which reference is made in regulation 25(1)(b), as the case may be, makes request to an adjudicating

authority for a hearing of an application for leave to appeal, appeal or reference under this Part, such request shall be granted:

Provided that in the case of an application in writing for leave to appeal made to the medical board, if, after considering the documents in the case and the reasons put forward in such request, the medical board is satisfied that the application can properly be determined without a hearing, the person who made the request shall be informed in writing and the application shall be so determined.

(2) If, in accordance with paragraph (1), a request for a hearing has been granted or, if notwithstanding that no request has been made the adjudicating authority is otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to the Director and the claimant or the association to which reference is made in regulation 25(1)(b) and every such hearing shall be in public except in so far as the adjudicating authority for special reasons may otherwise direct.

(3) The Director and the claimant or the association to which reference is made in regulation 25(1)(b) shall have the right to be present and to be heard at such a hearing by an adjudicating authority and may be represented by (Counsel or solicitor) or any other person.

(4) If any person to whom notice of hearing has been duly given in accordance with paragraph (2) fails to appear either in person or by representative at the hearing the adjudicating authority may proceed to determine the application, appeal or reference.

(5) Where a medical board is unable to reach a unanimous decision on an application for leave to appeal, the decision of the majority of the members thereof shall be the decision of the medical board.

(6) The decision of a medical board on an application for leave to appeal shall be recorded in writing, and shall be included in such record, which shall be signed by all members thereof, a statement of the reasons for such decision, and a copy of the record shall be sent as soon as may be practicable to the Director and to the claimant, or the association.

(7) Where the appeal tribunal, at the hearing of an application made in accordance with regulation 27 gives leave to appeal it may, with the consent of the Director and the claimant or the association forthwith hear and decide the question of law arising on the appeal.

(8) The appeal tribunal may either before, or at any time during the hearing of an appeal or reference, require the medical board to submit such further statement of the facts on which the question of law submitted for decision arises as it considers necessary for the proper determination of that question.

(9) The decision of the appeal tribunal on an application for leave to appeal shall be recorded in writing and signed, and a copy thereof shall be sent as soon as may be practicable to the chairman of the medical board and to the Director and to the claimant, or the association.

(10) The decision of the appeal tribunal on the question of law raised by an appeal or reference shall be in writing and signed, and as soon as may be practicable a

signed copy thereof shall be sent to the chairman of the medical board and copies thereof shall be sent to the Director and the claimant, or the association.

Procedure of medical board on receipt of the appeal tribunal's decision

30. (1) For the purposes of giving, confirming or revising their decision on the case in accordance with regulation 25(4) a medical board shall hold a hearing and subject to paragraphs (2) and (3), the provisions of Parts IV and VI which relates to the hearing of, the procedure of, and the right of audience and representation before, medical boards, shall apply to the hearing as if it were the original hearing of an appeal subject to the modification, that the association shall have the same rights thereunder as the claimant:

Provided that this paragraph shall apply in relation to the confirming by a medical board of a decision which the appeal tribunal has held not to be erroneous in point of law.

(2) For the purposes of confirming or revising their decision on the case, a medical board whether or not consisting of the members who constituted the medical board when that decision was given in the first place, shall proceed upon the facts included in the record of the decision so given:

Provided that if, having regard to the decision of the appeal tribunal on the question of law, the finding of additional facts is necessary for the purposes aforesaid, the medical board may receive further evidence and find such facts.

(3) When after receipt of the decision of the appeal tribunal on a point of law a medical board gives, confirms or revises its decision on the case, such decision shall be recorded and notified in accordance with regulation 24.

PART VI

MISCELLANEOUS

Miscellaneous powers of the board and appeal tribunal

31. (1) Subject to the Act and these Regulations the procedure on the determination of any question by the board or an appeal tribunal shall be such as the board or the appeal tribunal, as the case may be, may determine.

(2) Except in proceedings on applications for leave to appeal, appeals or references under Part V, the Board or an appeal tribunal, as the case may be, may refer to a registered medical practitioner for examination and report any question arising for their determination.

(3) For the purpose of arriving at their decision or discussing any question of procedure at any sitting or hearing, a medical board, may, notwithstanding anything in these Regulations, order all persons not being members of or the person acting as clerk to the medical board, to withdraw from such sitting or hearing.

(4) Any power given by these Regulations to extend the period during which anything is required to be done thereunder or to dispense with any of the requirements hereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

Review of decisions

32. (1) Subject to paragraphs (2) to (5) any decision of a medical board may be reviewed by a medical board if a medical board is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or mis-representation by the claimant or any other person of a material fact (whether the non-disclosure or mis-representation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by a medical board if the medical board is satisfied that since the making of the assessment there has been substantial unforeseen aggravation of the result of the relevant injury.

(3) Where in connection with a claim for disablement benefit it is decided that the relevant injury has not resulted in any loss of faculty, the decision—

- (a) may be reviewed under paragraph (2) as if it were an assessment of the extent of the disablement resulting from the relevant loss of faculty; but
- (b) subject to any further decision on an appeal or review, shall be treated as deciding whether the relevant accident has so resulted both for the time being about which the decision was given and for any subsequent time,

and for the purposes of this paragraph 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 deciding that at that date the relevant accident has not resulted in a loss of faculty.

(4) Subject to paragraphs (1) to (3), a medical board may deal with a case on a review in any manner in which they could deal with it on an original reference to them, and in particular may make a provisional assessment notwithstanding that the assessment under review was final.

Period to be taken into account by assessment revised on the unforeseen aggravation

33. On a review of an assessment under regulation 32(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 injury since the making of the assessment under review.

Adjustment of benefits, (employment injury benefits)

34. (1) In the case of benefits provided under section 27 of the Act—

- (a) subject to paragraph (c), any sum on account of benefit which has been paid to any person in pursuance of a decision which is afterwards revised on a review or reversed or varied on an appeal shall be treated as paid on account of any benefit which it is decided is or was payable to him in respect of the same accident or disease, and in respect of the same period (hereinafter referred to as “the common period”); or
- (b) for the purposes of paragraph (a) disablement grant under regulation of the Employment Injury Regulations, shall be treated as a periodical payment payable in respect of the period taken into account by the relevant assessment of the degree of disablement (that period, where it is more than 365 weeks or is not limited by reference to a definite date, being deemed to be one of 365 weeks); and—
 - (i) to the extent to which disablement grant falls to be treated as paid on account of disablement pension or disablement pension falls to be treated as paid on account of disablement grant, the disablement grant shall be treated as payable at a weekly rate calculated by dividing by 365 an amount equal to the amount of disablement grant payable for the period limited by reference to the beneficiary’s life in respect of the said assessment of the degree of disablement, fractions of a cent being disregarded; and
 - (ii) to the extent to which a disablement grant falls to be treated as paid on account of another disablement grant shall so treated as bears the same ration to its total amount as does the common period to the disablement grant period, fractions of a dollar disregarded;
- (c) paragraph (a) and (b) shall not operate so as to require any sum on account of benefit to be treated as paid on account of other benefit to the extent which that sum exceeds the amount which is payable or treated as payable in respect of the common period, of the other benefit.

(2) Nothing in this regulation shall be construed as preventing the operation of regulation 50 of the Benefits Regulations (which regulation concerns the adjustment of benefits where there is entitlement to more than one benefit).

Adjustment of benefit (other than employment injury benefit)

35. (1) In the case of benefits under section 27 of the Act—

- (a) where a grant is awarded by a decision on review or appeal in lieu of a pension previously awarded, such decision shall direct that any payments made on account of such pension shall, in so far as they do not exceed the amount of the grant, be treated as being made on account of the grant;
- (b) where any benefit other than a grant is awarded by a decision on review or appeal in lieu of another kind of benefit previously

awarded, that decision shall, as respects any payments made on account of the benefit previously awarded—

- (i) direct that in so far as the amount thereof does not exceed the amount of any arrears payable by way of the benefit so awarded, such payments shall be treated as having been made on account of such arrears; and
 - (ii) to the extent by which the amount thereof extends the amount of said arrears, direct that such payments shall (except in so far as they are required to be repaid under this regulation) be treated as having been made on account of sums becoming payable after the date of the decision on review or appeal by way of the benefit awarded thereby;
- (c) where on review or appeal a decision is revised, or is reversed or varied so as to make benefit not payable or to reduce benefit, the decision given on the review or appeal shall require payment to the Fund of any benefit paid in pursuance of the original decision to the extent to which it—
- (i) would not have been payable if the decision on the review or appeal had been in the first instance; and
 - (ii) is not directed to be treated as paid on account of the benefit awarded by the decision on review or appeal;
- (d) where—
- (i) on appeal against an award of benefit a decision is reversed or varied, so that such benefit is not payable or is payable at a less rate; and
 - (ii) on review, the decision on that appeal is revised so as to make such benefit payable or payable at a higher rate from a date before the decision on appeal any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision;
- (e) where, in accordance with a decision given on a review or appeal any benefit is required to be repaid to the Fund, 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.

(2) Nothing in this regulation shall be construed as preventing the operation of regulation 50 of the Benefits Regulations (which regulation concerns the adjustment of benefits where there is entitlement to more than one benefit).

Decision to be conclusive for purpose of proceedings under Act, etc.

36. (1) Where in any proceedings—

- (a) for an offence under the Act; or
- (b) involving any question as to the payment of contributions under this Act; or
- (c) for the recovery of any sums due to the Fund, any question arises which under the Act or Regulations is to be determined by the Board, or by the High Court in the event of an appeal on a point of law, or the Director, appeal tribunal or medical board, 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 these proceedings.

(2) If any such decision under paragraph (1) has not been obtained and the decision of the question shall be referred to the appropriate determining authority, as the case may require, in accordance with procedure (modified where necessary) prescribed in these Regulations.

(3) Where any such appeal as is mentioned in paragraph (1) is pending, or the time for so appealing has not expired, or where any with the case shall adjourn the proceedings until such time as a final decision upon the question has been obtained.

Authority for payment of expenses

37. There shall be paid out of the Fund to the chairman and members of the appeal tribunal and a chairman and member of the medical board such salary or other remuneration and such expenses as the Board from time to time determine.

Travelling and other allowances

38. (1) There shall be paid to a person or persons appointed by the Board under regulation 4(3) such remuneration and such travelling or other allowances as the Board may determine and such sums shall properly be payable out of the Fund.

(2) There shall be paid to person required to attend on the consideration of a case before the appeal tribunal, the Board or a medical board such travelling or other allowances as the Board may by resolution declare and such sums shall be properly payable out of the Fund.

(3) There shall be paid such other expenses incurred in connection with the work of the appeal tribunal, the Board or a medical board as the Board may determine and such sums shall be properly payable out of the Fund.

(4) For the purposes of this regulation, references to travelling or other allowances include references to compensation for loss of remuneration:

Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of a remuneration under this regulation.

SCHEDULE

(Regulation 7)

APPEAL TRIBUNAL

1. An appeal tribunal shall consist of—
 - (a) one person drawn in accordance with paragraph 3, from a panel of persons chosen by the Board to represent employers;
 - (b) one person drawn in accordance with paragraph 3 from a panel of persons chosen by the Board to represent insured persons; and
 - (c) a chairman who, subject to the provisions of this Schedule, shall hold office for such period not exceeding two years, as the Board may determine and who shall be eligible for re-appointment.
 2. (1) The chairman, of an appeal tribunal shall be a barrister or Attorney-at-Law of at least five years standing and the Board may appoint one or more persons to perform the functions of chairman.
(2) The members of the panel shall be appointed by the Board, so, however, that before appointing members to either of the panels, the Board may take into consideration any recommendation from organisations concerned with the interests of employers or insured persons.
 3. As far as practicable, the members of each panel shall be summoned by the Board to serve in turn on the appeal tribunal for which the panel is established:
Provided that—
 - (a) no person shall sit on a tribunal during the consideration of a case—
 - (i) in which he appears as the representative of the claimant; or
 - (ii) by which he is or may be directly affected; or
 - (iii) in which he has taken any part as an employer or as a witness;
 - (b) where the claimant is a woman, at least one of the members of the tribunal, if practicable, shall be a woman.
 4. The appeal tribunal may, with the consent of the claimant, but not otherwise, proceed with any case in the absence of any member other than the chairman, and in any such case the chairman shall, if the number of the members of the tribunal is an even number, have a second or casting vote.
 5. Members appointed to a panel pursuant to this Schedule shall, subject to the provisions of this Schedule, hold office for such term and on such conditions as may be determined by the Board.
 6. The Board may, subject to the approval of the Minister, at any time revoke the appointment of the chairman and the Board may, if it considers it expedient so to do, at any time revoke the appointment of any member of a panel.
 7. No member of the Board shall be eligible for appointment as a chairman or member of an appeal tribunal.
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CHAPTER 18.09**SOCIAL SECURITY (OECS) (CONVENTION) ACT**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Convention to have force of law
4. Administrative Agreement to have effect
5. Implementation of amendments to the Convention and the Administration Agreement
6. Functions
7. Competent Institutions

SCHEDULE: Convention on Social Security in the Organisation of Eastern Caribbean States

CHAPTER 18.09**SOCIAL SECURITY (OECS) (CONVENTION) ACT**

(Act 12 of 1998)

AN ACT TO PROVIDE FOR THE IMPLEMENTATION IN MONTSERRAT OF THE CONVENTION ON SOCIAL SECURITY IN THE ORGANISATION OF EASTERN CARIBBEAN STATES AND THE ADMINISTRATION AGREEMENT.

Commencement

[1 January 1999]

Short title

1. This Act may be cited as the Social Security (OECS) (Convention) Act.

Interpretation

2. In this Act—

“Minister” means the Minister charged with responsibility for Social Security matters in Montserrat.

Convention to have force of law

3. The Convention on Social Security in the Organisation of Eastern Caribbean States, done at Grenada on the 21st day of June 1991, text of which is set out in the Schedule, shall have the force of law in Montserrat.

Administrative Agreement to have effect

4. The Administration Agreement set out in Part II of the Schedule shall have effect in relation to the application of the Convention in Montserrat.

Implementation of amendments to the Convention and the Administration Agreement

5. (1) Where an amendment of the Convention on Social Security and the Administrative Agreement is accepted by the Governments, the Governor in Council may by Order amend the Schedule for the purpose of including the amendments.

(2) Where the Schedule is amended in accordance with this section, any reference in this Act or in any other enactment or in any instrument having effect under any such enactment shall, unless the context otherwise requires, be construed as a reference to the Convention and the Administrative Agreement as so amended.

Functions

6. (1) The functions specified in Article 3 of the Convention and in Article 4 of the Administrative Agreement shall be carried out on behalf of Montserrat by the Minister.

(2) Any function required by the Convention or the Agreement to be performed by the competent institution shall be performed by the Director of the Social Security Fund.

(3) Any application to the competent Institution under the Convention or Agreement shall be addressed to the Director of the Social Security Fund.

Competent Institutions

7. For the purposes of the Convention and the Administrative Agreement the competent institution is the Social Security Fund established under the Social Security Act.

SCHEDULE

CONVENTION ON SOCIAL SECURITY IN THE ORGANISATION OF EASTERN CARIBBEAN STATES

The Member States of the Organisation of Eastern Caribbean States signatories hereto.

Considering that one of the major purposes of the Organisation is to promote co-operation among the Member States of the Organisation.

Bearing in mind that one of the areas of functional cooperation among the Member States is Social Security.

Recognising that multilateral co-ordination of social security legislation is one of the ways directed to foster such unity and functional co-operation.

Affirming the principles of equality of treatment for residents of the Participating States under the Social Security legislation of each Participating State, the maintenance of rights acquired or in the course of acquisition, and the principle that benefits under Social Security legislation should be protected and maintained notwithstanding changes of residence within the territories of the Participating States, principles which underlie several of the Conventions of the International Labour Organisation.

Have agreed as follows—

PART I

DEFINITIONS, GENERAL PROVISIONS AND SCOPE

ARTICLE 1

1. For the purpose of this Convention—

“**Authority**” means the Authority of Heads of Government of Member States of the Organisation;

“**benefit**” means a benefit provided for in Article 2 and in the applicable legislation referred to in Article 3;

“**competent authority**” means the Minister or other authority charged with responsibility for national insurance and social security matters in the territory of each Participating State;

“**competent institution**” means—

- (i) the institution of the Participating States where the insured person is resident or if he is not resident in the territory of one of the Participating States, the institution of the Participating State the legislation of which last applied to him; or

- (ii) the institution from which he is entitled to receive, or would be entitled to receive benefit if he were resident in the territory of the Participating State where that institution is situated; or
- (iii) the institution designated by the competent authority of the Participating State in which the insured person is resident at the time of claiming benefit;

“competent State” means the Participating State in whose territory the competent institution is situated;

“dependant” means a member of the family of an insured person or some person though not being a member of the family of the insured person is accepted as such by virtue of being dependent on the insured person under the applicable legislation;

“Director-General” means the Director-General appointed under the Treaty;

“institution” means the authority or organisation responsible for administering all or part of the social security legislation of each Participating State;

“insurance period” means any contribution period as defined or admitted as such by the legislation under which it was completed, and any other period treated as such, in so far as it is recognised by the said legislation as being equivalent to an insurance period;

“insured person” means an employed person or a self-employed person or any other person treated as an insured person under the legislation of the Participating State concerned;

“legislation” means according to the context, the laws, regulations and statutory provisions in force immediately before the coming into force of the present Convention or which subsequently come into force throughout the territory of each Participating State, and which are related to the branches of social security specified in Article 2;

“Organisation” means the Organisation of Eastern Caribbean States established by the Treaty done at Basseterre on the 18th day of June, 1981;

“Participating State” means any Member State of the Organisation which is a signatory to this Convention or any other State which has acceded to this Convention in accordance with Article 49;

“survivor” means a person defined or recognised as such by the legislation by virtue of which benefits are payable;

“Treaty” means the Treaty establishing the Organisation done at Basseterre on the 18th day of June, 1981.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

ARTICLE 2

This Convention shall apply to all the contributory social security schemes in respect of the following benefit—

- (a) invalidity, old-age and survivors' benefits;
- (b) benefits in respect of employment injuries and occupational diseases;
- (c) funeral benefits;
- (d) sickness and maternity benefits.

ARTICLE 3

Each Participating State shall, as soon as possible after the Convention becomes applicable to its territory, supply the Director-General with a list of its legislation to which the Convention is applicable. Any modification to be made to the list shall in like manner be supplied to the Director-General within three months from the date of the enactment of such legislation.

ARTICLE 4

1. The provisions of this Convention shall apply to insured persons who are or have been subject to the legislation of one or more of the Participating States, as well as to their dependants or survivors as the case may be.

2. The provisions of this Convention shall not be applied to diplomatic agents under the Vienna Convention on Diplomatic Relations, 1911, to consular officers as defined in the Vienna Convention on Consular Relations, 1963 or to persons of equivalent status in international organisations of which a Participating State is a member.

ARTICLE 5

The provisions of this Convention shall not affect the obligations arising out of any Convention adopted by the International Labour Conference and ratified by the Participating States.

ARTICLE 6

Where the legislation of a Participating State makes admission to voluntary insurance conditional upon the completion of a certain number of insurance periods, the institution applying the said legislation shall in assessing the total number of periods completed, take into account all insurance periods completed under the legislation of any other Participating State, as if they were insurance periods completed under the legislation to which the institution applies.

ARTICLE 7

Unless otherwise specified in this Convention, invalidity, old-age, survivors' or funeral benefits, and benefits paid in pension or lump sum form or a combination of both in respect of disablement for employment injuries or occupation diseases under

the legislation of one or more of the Participating States, shall in no case be reduced, modified, suspended or confiscated on account of the fact that the insured person, his dependents or survivors are resident in the territory of one of the Participating States other than where the institution required to pay such benefits is situated.

ARTICLE 8

1. Except in the case of invalidity, old-age, survivors' or occupational disease benefits assessed and paid by the institutions of two or more of the Participating States by virtue of Article 16 or paragraph (b) of Article 30, this Convention shall not confer or maintain the right to draw simultaneously two or more benefits of the same kind or two or more benefits referring to the same insurance period.

2. Provisions in the legislation of a Participating State for the reduction, suspension or suppression of benefits where there is overlapping with other benefits or other income, or because of an occupational activity, shall apply also to a beneficiary in respect of benefits acquired under the legislation of any other Participating State or in respect of income obtained or occupation followed, in the territory of any other Participating State. This rule shall not, however, apply to benefits of the same nature payable in respect of invalidity, old-age, survivors' or occupational disease by the institutions of two or more Participating States in accordance with the provisions of Article 16 and paragraph (b) of Article 30.

PART II

PROVISIONS WHICH DETERMINE LEGISLATION APPLICABLE

ARTICLE 9

1. An employed person shall be subject in relation to his employment to the legislation of one Participating State.

2. An employed person who is employed in the territory of a Participating State shall be subject to the legislation of that State even if he resides in the territory of another Participating State or even if the undertaking which employs him has its principal place of business, or his employer has his place of residence, in the territory of another Participating State.

3. Workers who follow their occupation on board a ship flying the flag of a Participating State shall be subject to the legislation of that State.

4. The provisions of this Article shall apply to members of the service staff of diplomatic missions or consular posts and also to persons employed in the private service of officials of such missions or posts. However, such workers who are members of a Participating State which is the sending State may opt for the application of the legislation of that State.

ARTICLE 10

A self-employed person who follows his occupation in the territory of a Participating State shall be subject to the legislation of that State, even if he resides in the territory of another Participating State.

ARTICLE 11

The provisions of Articles 9 and 10 shall not apply in the case of voluntary insurance.

ARTICLE 12

1. Where the application of the legislation of two or more Participating States would result in the person concerned becoming insured under a compulsory insurance scheme and at the same time permit membership as a voluntary contributor to another compulsory insurance scheme, the person concerned shall be subject to the provisions of the first-mentioned compulsory insurance scheme only.

2. In cases where the application of the legislation of two or more Participating States would permit membership as a voluntary contributor to two or more compulsory insurance schemes, the person concerned shall be entitled to be insured under the insurance scheme of the Participating State where he is resident or if he is not resident in the territory of one of the Participating States, under the scheme of the Participating State whose legislation last applied to him.

ARTICLE 13

The competent institutions of two or more of the Participating States may by mutual agreement make exceptions to the provisions of Articles 9 and 12 in the interests of the persons affected thereby.

PART III**DETAILED PROVISIONS GOVERNING THE VARIOUS CATEGORIES OF BENEFITS****Chapter 1: Invalidity, Old-Age and
Survivors' Benefits Common Provisions****ARTICLE 14**

Where an insured person has been subject successively or alternatively to the legislation of two or more Participating States, such insured person or his survivors shall be entitled to benefits in accordance with the provisions of this Chapter, even if an insured person could be entitled to claim benefits under the legislation of one or more of the Participating States without the provisions of this Chapter being applied.

ARTICLE 15

Where the legislation of a Participating State makes the acquisition or maintenance of entitlement of benefits conditional upon the completion of a number

of insurance periods, the institution administering that legislation shall, to that end, for the purpose of adding periods together, take account of all insurance periods completed under the legislation of any other Participating State treating them as periods completed under the legislation of the first State.

ARTICLE 16

1. The institution of each Participating State to whose legislation the person concerned has been subject shall determine, in accordance with the legislation which it applies, whether such person satisfies the conditions for entitlement to benefits having regard, where appropriate, to the provisions of Article 15.

2. If the person concerned satisfies those conditions, the said institution shall calculate the notional amount of the benefit he could claim if all the insurance periods completed under the different legislation of the Participating States concerned, and taken into account in accordance with the provisions of Article 15 for determining entitlement, had been completed exclusively under the legislation applied by the said institution.

3. The actual amount payable by the said institution shall bear a direct ratio to the notional amount calculated in accordance with the preceding paragraph as the number of insurance periods completed under the legislation of that institution bears to the total number of insurance periods completed before the contingency arose under the legislation of all the Participating States.

ARTICLE 17

For the purposes of calculating the notional amount referred to in paragraph 2 of Article 16, where the legislation of a Participating State provides that benefits are to be calculated on the sum total of insurable earnings or number of contributions, the earnings or contributions to be taken into account by the competent institution of that State with respect to the periods completed under the legislation of other Participating States shall be determined on the basis of the average earnings or the contributions recorded for the periods completed under the legislation of the first-mentioned State.

ARTICLE 18

Where the legislation of a Participating State provides that the amount of benefit shall vary according to the number of dependants of the insured, the competent institution shall also take account of the dependants resident in the territory of another Participating State, as if such dependants were resident in the territory of the first Participating State.

ARTICLE 19

1. Where at any given date an insured person does not satisfy the qualifying conditions required by the legislation of all the Participating States concerned (regard being had to the provisions of Article 17) but satisfies the qualifying conditions required by only one or more of them, then the amount of the benefits payable shall be calculated in accordance with paragraphs 2 and 3 of Article 16 by each of the competent institutions applying the legislation the qualifying conditions of which are fulfilled.

Provided that—

- (a) where the insured person concerned satisfies the conditions of at least two legislations without any need to include periods of insurance completed under legislations, the conditions of which are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of paragraphs 2 and 3 of Article 16;
- (b) where the insured person concerned satisfies the qualifying conditions of one legislation only without any need to invoke the provisions of Article 15, the amount of benefit payable shall be calculated exclusively in accordance with the provisions of the legislation the qualifying conditions of which are fulfilled, taking account of periods completed under that legislation only.

2. Benefits awarded under one or more of the legislations concerned in the cases covered by the preceding paragraph shall be automatically recalculated in accordance with the provisions of paragraphs 2 and 3 of Article 16 as and when the qualifying conditions prescribed by one or more of the other legislations concerned are satisfied, the provisions of Article 15 being taken into account, where applicable.

ARTICLE 20

1. Where the amount of benefits which an insured person would be entitled to claim under the legislation of a Participating State, disregarding the provisions of Articles 15 and 18 is greater than the sum total of the benefits payable in accordance with those provisions, the competent institution of that State shall pay him a supplement equal to the difference between the two amounts and shall bear the whole cost thereof.

2. In cases where the application of the preceding paragraph of this Article would result in payment of the insured person concerned of supplements from the institutions of two or more Participating States, he shall be entitled to the largest supplement only, the cost of such supplement being apportioned among the competent institutions of the said Participating States according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all the said institutions would have had to pay.

3. The supplement referred to in the preceding paragraphs of this Article shall be deemed to be a component of the benefits provided by the institution liable for payment. Its amount shall be determined once and for all, except where it may be necessary to apply the provisions of paragraph 2 of Article 19.

SPECIAL PROVISION CONCERNING INVALIDITY BENEFIT

ARTICLE 21

1. Where appropriate, invalidity benefits shall be converted to old-age benefits, subject to the conditions prescribed by the legislation or legislations under which they have been awarded and in accordance with the provisions of Articles 15 to 19.

2. Where, in the cases referred to in Article 19, a recipient of invalidity benefits payable under the legislation of one or more of the Participating States becomes entitled to old-age benefit, any institution liable to pay invalidity benefits shall continue to pay such recipient the benefit to which he is entitled under the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

Chapter II – Benefits in the Case of Employment Injuries and Occupational Disease

ARTICLE 22

1. An insured person resident in the territory of a Participating State other than the competent State, who suffers personal injury caused by accident or contracts an occupational disease shall receive, in the territory of the Participating State where he is resident—

- (a) benefits in kind, to be provided directly by the institution of the place of residence, at the expense and on behalf of the competent institution, in accordance with the provisions of the legislation which the institution of the place of residence administers, as if the insured person was subject to the legislation applied by that institution;
- (b) cash benefits, paid out directly by the competent institution under the legislation administered by the institution, as if the insured person were resident in the territory of the competent State; however where an agreement has been reached to this effect between the competent institution and the institution of the place of residence, such cash benefits may be paid out directly by the institution of the place of residence on behalf and at the expense of the competent institution.

2. Where an insured person covered by this Article transfers his residence to or makes a stay in the territory of the competent State he shall receive benefit in accordance with the provisions of the legislation of the said State, even if he has commenced to draw benefit elsewhere before his stay or transfer of residence.

ARTICLE 23

1. An insured person, having sustained personal injury caused by accident or having contracted an occupational disease who—

- (a) is staying in the territory of a Participating State other than the competent State; or
- (b) after having become entitled to benefits payable by the competent institution, is authorised by the said institution to return to the territory of a Participating State other than the competent State where he is resident, or to transfer his residence to the territory of a Participating State other than the competent State; or

- (c) is authorised by the competent institution to move to the territory of a Participating State other than the competent State in order to receive the treatment necessary for his condition;
- shall be entitled to—
- (i) benefits in kind provided on behalf and at the expense of the competent institution by the institution of the place of residence or of stay, in accordance with the provisions of the legislation applied by the latter institution, as if such insured person was subject to the provisions of the legislation applied by that institution;
 - (ii) cash benefits, paid out directly by the competent institution, under the provisions of the legislation applied by that institution, as if the insured person were resident or staying in the territory of the competent State; however, where an agreement has been reached to this effect between the competent institution and the institution of the place of stay or residence, such cash benefits may be paid out directly by the institution of the place of stay or residence on behalf and at the expense of the competent institution.
2. (a) The authorisation referred to in sub-paragraph (b) of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the insured person.
- (b) The authorisation referred to in sub-paragraph (c) of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Participating State in which the insured person resides.

ARTICLE 24

In the cases referred to in paragraph 1 of Article 21 and paragraph 1 of Article 22 the competent authorities of two or more Participating States may agree to make the provision of prosthetic appliances, major aids and other major benefits in kind conditional on the prior authorisation of the competent institution.

ARTICLE 25

1. Where the legislation of the competent State provides for payment of the cost of transporting the injured person to his place of residence or to hospital, the cost of transport to the corresponding place in the territory of another Participating State where he is resident shall be defrayed by the competent institution, in accordance with the provisions of the legislation it applies; provided it has given prior authorisation for the said transport, due account being taken of the reasons justifying it.

2. Where the legislation of the competent State makes provision for the payment of the cost of transporting the body of a deceased worker to the place of burial, the cost of transport to the corresponding burial place in the territory of another Participating State where the deceased was resident shall be borne by the competent institution, in accordance with the legislation it applies.

3. The application of the paragraphs of this Article between two or more of the Participating States may be subject to the making of agreements between the said States.

ARTICLE 26

A Participating State shall provide benefits in kind for employment injuries to any person insured with another Participating State who happens to be in the territory of the first-mentioned Participating State.

ARTICLE 27

Where the legislation of a Participating State explicitly or implicitly provides that previous employment injuries or occupational diseases shall be taken into account in the assessment of the degree of incapacity, the competent institution of that State shall also take into account for this purpose employment injuries or occupational diseases previously recognised in accordance with the legislation of any other Participating State, as if they had occurred under the legislation of that State.

ARTICLE 28

Where the legislation of a Participating State fixes a maximum period for the provision of benefits the institution which applies that legislation may, where appropriate, take account of any period during which benefits have already been provided by the institution of another Participating State for the same case of employment injury or occupational disease.

ARTICLE 29

Where the legislation of a Participating State provides that cash benefits are payable to dependents, the competent institution of the said State shall also take account of dependents resident in the territory of another Participating State, as if they reside in the territory of the first-mentioned State, and appropriate apportionments shall be made accordingly where possible.

ARTICLE 30

1. Where an insured person certified as having contracted an occupational disease was engaged, under the legislation of two or more Participating States, in an activity likely to cause such disease, the benefit entitlement of such insured person or his dependents shall be assessed exclusively under the legislation of the last of such Participating States whose conditions for entitlement are fulfilled.

2. Where the legislation of a Participating State makes entitlement to benefits for occupational disease conditional on the occupation liable to cause the disease in question having been followed for a specified period, the competent institution of that State shall take into account, to the extent necessary, all periods during which such an occupation was followed in the territory of any other Participating State.

ARTICLE 31

Where an insured person having contracted an occupational disease has received or continues to receive benefit paid by the institution of a Participating State, and, in the event of an aggravation of his condition, claims benefit from the institution of another Participating State, the following provisions shall apply—

- (a) where the insured person was not engaged, under the legislation of the second State, in an occupation liable to cause or aggravate the disease in question, the competent institution of the first State shall bear the cost of the benefit, taking the aggravation into account, in accordance with the legislation it applies;
- (b) where the insured person was engaged in such an occupation under the legislation of the second State, the competent institution of the first State shall bear the cost of the benefit, leaving the aggravation out of account, in accordance with the legislation applied by it; the competent institution of the second State shall grant a benefit supplement equal to the difference between the rate of benefit payable after the aggravation of his condition and the rate previously payable, in accordance with the legislation applied by it.

ARTICLE 32

1. The competent institution shall reimburse the cost of benefits in kind paid out on its behalf by the institution of the place of residence or stay under paragraph 1(a) of Article 22 and paragraph 1(c)(i) of Article 23.

2. The reimbursements referred to in the preceding paragraph shall be determined and made under arrangements to be agreed between the competent authorities of the Participating States.

3. Two or more Participating States may agree that there shall be no refunds between the institutions in their jurisdiction.

Chapter III: Funeral Benefit**ARTICLE 33**

Where the legislation of a Participating State makes the acquisition, maintenance or recovery of entitlement of funeral benefits conditional upon the completion of a number of insurance periods, the institution administering the said legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of all insurance periods completed under the legislation of any of the other Participating States, treating them as periods completed under the legislation of the first State.

ARTICLE 34

1. Where a person dies in the territory of a Participating State other than the competent State, the death shall be deemed to have occurred in the territory of the competent State.

2. The competent institution shall provide funeral benefits due under the legislation which it applies, even if the beneficiary resides in the territory of a Participating State other than the competent State.

3. Where funeral benefits are payable in respect of the same death under the legislation of two or more Participating States only the largest of these benefits shall be paid; all the benefits payable under the different legislation shall be added together firstly and each Participating State shall be liable to pay a proportion of the largest benefit, such proportion representing the ratio which the benefit payable under each Participating State's legislation bears to the sum total of all the benefits payable under the different legislation.

4. The provisions of the preceding paragraphs of this Article shall apply also where death results from employment injuries or occupational diseases.

Chapter IV: Sickness and Maternity

ARTICLE 35

Where the legislation of a Participating State makes the acquisition or maintenance of entitlement to benefits conditional upon the completion of a number of insurance periods, the institution administering that legislation shall, to that end, for the purpose of adding periods together, take account of all insurance periods completed under the legislation of any other Participating State, treating them as periods completed under the legislation of the first State.

ARTICLE 36

1. An insured person resident in the territory of a Participating State other than the competent State and who satisfies the conditions for entitlement specified by the legislation of the latter State, regard being had, where appropriate, to the provisions of Article 35, shall receive in the territory of the Participating State in which he or she is resident, cash benefits, paid out directly by the competent institution under the legislation administered by that institution, as if the insured person were resident in the territory of the competent State, however, where an agreement had been reached to this effect between the competent institution and the institution of the place of residence, such cash benefits may be paid out directly by the institution of the place of residence on behalf of and at the expense of the competent institution.

2. Where an insured person covered by this Article transfers residence to or makes a stay in the territory of the competent State, he or she shall receive benefits in accordance with the provisions of the said legislation of the said State even if he or she has commenced to draw benefit for the same case of sickness or maternity elsewhere before the stay or transfer of residence.

ARTICLE 37

1. An insured person who satisfies the conditions for entitlement to benefits under the legislation of the competent State, regard being had, where appropriate, to the provisions of Article 35 and who—

- (a) has a condition which necessitates the immediate provision of benefits during a stay in the territory of a Participating State other than the competent State; or
- (b) after having become entitled to benefits payable by the competent institution, is authorised by the said institution to return to the territory of a Participating State other than the competent State where he or she is resident or to transfer residence to the territory of a Participating State other than the competent State; or
- (c) is authorised by the competent institution to move to the territory of a Participating State other than the competent State in order to receive the treatment necessary for his or her condition,

shall be entitled to cash benefits, paid out directly by the competent institution under the provisions of the legislation applied by that institution, as if the insured person was resident or staying in the territory of the competent State; however, where an agreement has been reached to this effect between the competent institution and the institution of the place of stay or residence, such cash benefits may be paid by the institution of the place of stay or residence, on behalf and at the expense of the competent institution.

2.
 - (a) The authorisation referred to in sub-paragraph (b) of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the insured person;
 - (b) the authorisation referred to in sub-paragraph (c) of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Participating State in which the insured person resides.

ARTICLE 38

Where the legislation of a Participating State provides that cash benefits are payable to dependents, the competent institution of the said State shall also take account of dependents resident in the territory of another Participating State, as if they were resident in the territory of the first-mentioned State and appropriate apportionment shall be made accordingly where possible.

ARTICLE 39

Where the legislation of a Participating State fixes a maximum period for the provision of benefits, the competent institution of the said Participating State shall also, where appropriate take account of any period during which benefits have already been provided by any other of the Participating States for the same case of sickness or maternity.

PART IV

MISCELLANEOUS PROVISIONS

ARTICLE 40

1. The competent authorities of the Participating State shall communicate to each other—

- (a) all information concerning measures taken by them for the application of this Convention; and
- (b) all information concerning their legislation and subsequent amendments of such legislation which may affect the application of this Convention; and
- (c) all statistical information concerning beneficiaries and the amount of benefits paid under this Convention.

2. For the purpose of the application of this Convention, the competent authorities and competent institutions of the Participating States shall—

- (a) assist one another as if they were applying their own legislation; and
- (b) provide administrative assistance, free of charge however, the competent authorities of the Participating States may agree to reimburse certain expenses.

3. For the purpose of the application of this Convention the competent authorities and competent institutions of the Participating States may communicate directly with one another and with the persons concerned or their representatives.

ARTICLE 41

Any exemption from, or reduction of, taxes, stamp duty, legal or registration costs specified by the legislation of one Participating State with respect to the certificates, documents or other documentary evidence to be submitted under the legislation of that State shall be extended to cover similar certificates, documents or other documentary evidence to be submitted under the legislation of another Participating State or under this Convention.

ARTICLE 42

1. If the claimant is resident in a Participating State other than the competent State, he may validly submit his claim to the institution of his place of residence, which shall refer it to the competent institution or institutions mentioned in the application.

2. Any claim, application, declaration or appeal which should have been made under the legislation of a Participating State within a prescribed time limit to an authority, institution or jurisdiction of that State shall be admissible if it is submitted within the same time limit to an authority, institution or jurisdiction of another Participating State. In such event, the authority, institution or jurisdiction receiving the claim, application, declaration or appeal, shall transmit it without delay to the competent authority, institution or jurisdiction of the first State, either directly or

through the competent authority, institution or jurisdiction of the Participating States concerned. The date on which any claim, application, declaration or appeal was submitted to an authority, institution or jurisdiction of the second State shall be deemed to be the date on which it was lodged with the competent authority, institution or jurisdiction.

ARTICLE 43

Investigations or medical examinations prescribed by the legislation of one Participating State may, at the request of the institution which administers such legislation, be carried out in the territory of another Participating State by the institution of the place of stay or residence, and in this case, they shall be deemed to have been made in the territory of the first State.

ARTICLE 44

1. Where, under this Convention, the competent institution of a Participating State is liable to pay cash benefits to a beneficiary who is staying or is in the territory of another Participating State, the liability shall be expressed in the currency of the first State. That institution concerned shall validly discharge its liability in the currency of the second State.

2. Where, under this Convention, the competent institution of a Participating State is liable to pay sums in refund of benefits paid out by the institution of another Participating State, its liability shall be expressed in the currency of the second State; the first institution shall validly discharge its liability in the currency of the second State, unless the Participating States concerned have agreed to other ways of settlement.

3. Transfers of funds as a result of the application of this Convention shall be made in accordance with the agreements in force on this subject, at the time of such transfer, between the Participating States concerned, calling such agreements, the necessary measures for making such transfers shall be drawn up by mutual agreement between the said States.

ARTICLE 45

1. Any dispute arising between two or more Participating States as to the interpretation or application of this Convention shall first be subject to negotiation between the States parties to the dispute.

2. Where the dispute is not settled within three months from the request for commencement of negotiations as prescribed in paragraph 1 of this Article, the dispute shall be submitted to arbitration on the written request of any of the Participating States.

3. The written request shall be addressed to the Director-General who shall promptly notify the Parties to the dispute of his receipt of the request for arbitration.

4. Any dispute to be submitted to arbitration shall be referred to a tribunal consisting of three arbitrators. Each Party to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall appoint the third arbitrator who shall be the Chairman. The Chairman must be a person with legal qualifications.

5. For the purposes of establishing a tribunal referred to in the preceding paragraph, a list of arbitrators consisting of persons experienced in the practice of Social Security shall be drawn up and maintained by the Director-General. To this end, every Participating State shall be invited to nominate two persons, and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be three years and may be renewed. The Chairman need not be appointed from the list.

6. If within thirty days following the date of notification by the Director-General in accordance with paragraph 3 of this Article either Party fails to appoint an arbitrator, either Party may request the Director-General to appoint the other arbitrator. If within fifteen days of appointment of the last of the two arbitrators the Chairman has not been appointed, either Party may request the Director-General to appoint the Chairman.

7. Where more than two Participating States are Parties to a dispute; the Parties concerned shall agree among themselves on the arbitrators to be appointed from the list. In the absence of such appointment within the prescribed period, the Director-General shall appoint a sole arbitrator whether from the list or otherwise, for the purpose.

8. The arbitral tribunal so established shall make a determination within ninety days from the date of its constitution. The decision of a sole arbitrator or of a majority in other cases shall be accepted by the Parties to the dispute as the final adjudication thereof.

9. The procedure of the tribunal shall be fixed by the arbitrators but the Chairman shall be empowered to settle all questions of procedure in any case where there is disagreement.

10. The Authority shall make arrangements for dealing with the expenses of the arbitration.

ARTICLE 46

1. This Convention may be amended by all the Participating States.
2. Any such amendment shall enter into force one month after notification or acceptance by all the Participating States.
3. Benefits which have accrued to an insured person shall in no way be prejudiced or affected by any amendment to this Convention.

ARTICLE 47

The Participating States shall review this Convention within three years of its entry into force.

PART V**TRANSITIONAL AND FINAL PROVISIONS****ARTICLE 48**

1. Subject to paragraph 3 of this Article, where title to benefits arose before the entry into force of this Convention, the benefits payable under such title shall be dealt with under the appropriate national legislation and not according to the Convention.

2. Every insurance period completed under the legislation of a Participating State before the date on which this Convention enters into force shall be taken into account for the purpose of determining rights arising from this Convention.

3. Any benefit which has not been assessed and paid or which has been suspended on account of the residence of the person concerned in the territory of any Participating State other than the State where the institution liable to pay the benefits is situated shall, at the request of the person concerned, be assessed and paid, or its suspension terminated, as from the date on which this Convention enters into force.

4. Where the request referred to in the preceding paragraph is made within two years of the date on which this Convention enters into force entitlements and rights arising in accordance with the provisions of this Convention shall be acquired as from that date, and no provision to the contrary in the legislation of any of the Participating States with respect to entitlements or rights lapsing or becoming statute-barred shall apply to the person concerned.

5. Where the request referred to in paragraph 3 above is made more than two years after the date on which this Convention enters into force, any entitlements or rights which are not held to be statute-barred or to have lapsed shall be payable only from the date on which the request was made, unless there are more favourable provisions in the legislation of the Participating State concerned.

ARTICLE 49

1. This Convention shall be open to—

- (a) Antigua and Barbuda;
- (b) British Virgin Islands;
- (c) Dominica;
- (d) Grenada;
- (e) Montserrat;
- (f) Saint Kitts and Nevis;
- (g) Saint Lucia;
- (h) Saint Vincent and the Grenadines.

It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Director-General.

2. This Convention shall enter into force on the first day of the third month following that in which the third instrument of ratification or acceptance is deposited.

3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall enter into force three months after the date of deposit of its instrument of ratification or acceptance.

ARTICLE 50

1. After entry into force of this Convention the Participating States may invite any State to accede to this Convention, always provided that the resolution containing such invitation received the unanimous agreement of the Member States of the Organisation who have ratified this Convention.

2. Accession shall be effected by the deposit with the Director-General of an instrument of accession which shall take effect three months after the date of its deposit.

ARTICLE 51

1. This Convention shall remain in force without limitation of time.

2. Any Participating State may, in so far as it is concerned, denounce the Convention after it has been in force for five years in respect of that State by giving notice to this effect to the Director-General.

3. Such denunciation shall take effect six months after the date on which such notice is received by the Director-General.

ARTICLE 52

1. In the event of denunciation of this Convention all rights acquired under the Convention shall be maintained.

2. In the event of the denunciation or termination of this Convention, negotiation shall take place for the settlement of any rights then in the course of acquisition by virtue of the provisions of the Convention.

ARTICLE 53

The Participating States shall make all the necessary arrangements for the application of this Convention.

ARTICLE 54

The Director-General shall promptly communicate to the Participating States—

- (a) information on each signing and the deposit of each instrument of ratification, acceptance or accession in accordance with the provisions of paragraph 1 of Article 48 or paragraph 2 of Article 49;
- (b) any date of entry into force of this Convention in accordance with the provisions of Article 48 and Article 49;

- (c) any notice of denunciation received in accordance with the provisions of paragraph 2 of Article 50;
- (d) copies of the list and any modifications received in accordance with the provisions of Article 3.

ARTICLE 55

1. The application of this Convention shall be governed by the Administrative Agreement.
 2. Any signatory State of this Convention which ratifies or accepts it must, at the same time, either ratify or accept the Administrative Agreement.
 3. Any State which accedes to this Convention must, at the same time, accede to the Administrative Agreement.
 4. Any Participating State which denounces this Convention shall, by so doing, be deemed to have denounced the Administrative Agreement.
 5. The Administrative Agreement shall be an Annex to this Convention.
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ANNEX TO CONVENTION

ADMINISTRATIVE AGREEMENT FOR THE APPLICATION OF THE CONVENTION ON SOCIAL SECURITY IN THE ORGANISATION OF EASTERN CARIBBEAN STATES

The Member States of the Organisation of Eastern Caribbean States signatories to the Convention on Social Security in the Organisation of Eastern Caribbean States;

Considering that by the terms of paragraph 1 of Article 54 of the Convention on Social Security in the Organisation of Eastern Caribbean States the application of that Convention is governed by an Administrative Agreement,

Have agreed as follows—

PART I

GENERAL PROVISIONS

ARTICLE 1

1. For the purposes of this Administration Agreement—

“**Agreement**” means the Administrative Agreement for the application of the Convention;

“**Convention**” means the Convention on Social Security in the Organisation of Eastern Caribbean States;

“**Committee**” means the Committee comprising the Heads of Social Security of the Participating States.

2. The terms defined in Article 1 of the Convention have the meanings given them in that Article.

ARTICLE 2

1. The Committee shall settle every administrative question arising out of the provisions of the Convention and of this Agreement without prejudice to the right of the authorities, institutions and persons concerned to have recourse to the procedures and jurisdictions provided for in the legislation of the Participating States.

2. Models of the certificates, statements, declarations, claims and other documents required or the application of the Convention and of this Agreement shall be prepared by the Committee.

3. The Committee may assemble information on the provisions of the legislation to which the Convention applies at the request of the competent authorities of any Participating State.

4. The Committee may prepare written information for the purpose of informing the persons concerned of their rights and the administrative formalities required to secure them.

ARTICLE 3

Any institution of a Participating State, and likewise any insured person residing or staying in the territory of a Participating State, may approach directly the institution of another Participating State.

ARTICLE 4

1. Each Participating State shall, as soon as possible after the Agreement becomes applicable to its territory, supply the Director-General with the following information—

- (a) the name or names of its competent authority or authorities;
- (b) the name or names of its competent institution or institutions;
- (c) the name and address of the bank referred to in paragraph 1 of Article 27, of this Agreement.

2. Any modification to be made to the information given in accordance with the provisions of paragraph 1 shall be supplied to the Director-General within three months of the modification being made.

PART II

APPLICATION OF PART I OF THE CONVENTION (GENERAL PROVISIONS)

ARTICLE 5

In order to benefit from the provisions of Article 6 of the Convention, the person concerned shall submit to the institution of the Participating State concerned a certificate of the periods of insurance completed under the legislation of any another Participating State. This certificate shall be issued at the request of the person concerned, or the said institution, by the institution or institutions within the purview of which he has completed the periods in question.

ARTICLE 6

Where a person in receipt of benefits under the provisions of the legislation of one Participating State is also entitled to benefits under the provisions of the legislation of one or more of the other Participating States, the following rules shall apply—

- (a) where the application of the provisions of paragraph 2, of Article 8 of the Convention would entail the reduction, suspension or suppression of such benefits, none of them may be reduced, suspended or suppressed to an extent greater than the amount which would be obtained by dividing the sum affected by the reduction, suspension or suppression in accordance with the legislation under which benefit is due by the number of benefits subject to reduction, suspension or suppression to which the beneficiary is entitled;

- (b) nevertheless, where the benefits concerned are invalidity, old age, or survivor's benefits paid out in accordance with the provisions of Article 16 of the Convention by the institution of a Participating State, that institution shall take account of the benefits, income or remuneration entailing the reduction suspension or suppression of the benefits due from it solely for the purposes of the reduction, suspension or suppression of the amount referred to in the said paragraph 3 of Article 16, but not for the calculation of the notional amount referred to in the said paragraph 2 of Article 16, however, account shall be taken of such benefits, income or remuneration only to the extent of that fraction of their amount corresponding to the ratio of the periods completed, as prescribed in paragraph 3 of Article 16, of the Convention;
- (c) for the application of the provisions of paragraph 2 of Article 8 of the Convention, the competent institution concerned shall communicate all relevant information to one another on request;
- (d) for the application of the provisions of paragraph 2 of Article 8 of the Convention, the official rate of exchange shall be the rate prevailing on the first day of the month in which the final payment is made or, if the pension is recalculated, at the rate then prevailing.

ARTICLE 7

Where a person or a member of that person's family has a claim to maternity benefit under the provisions of the legislation of two or more Participating States, benefits shall be provided solely under the provisions of the legislation of the State in whose territory the birth took place, or, if the birth did not take place in the territories of either of those States, then solely under the provisions of the legislation to which the person concerned was last subject.

ARTICLE 8

1. Where death occurs in the territory of a Participating State and there is entitlement under the provisions of the legislation of that State, and also under the provisions of the legislation of one or more of the other Participating States, the legislation of all the States shall be applied in accordance with the provisions of paragraph 3 of Article 33 of the Convention.

2. When death occurs in the territory of a Participating State and entitlement to funeral benefit has been acquired solely under the provisions of the legislation of two or more other Participating States, the funeral benefit acquired under the provisions of the legislation of the other Participating States shall be apportioned in accordance with the provisions of paragraph 3 of Article 34 of the Convention.

PART III

APPLICATION OF PART II OF THE CONVENTION

(Provisions which determine the legislation applicable)**ARTICLE 9**

1. In the cases covered by paragraph 2 and paragraph 3 of Article 9 of the Convention, the institution designated by the competent authority of the Participating State whose legislation is applicable shall issue to the employed person on his or her employer's request, if the requisite conditions are fulfilled, a certificate of such employment abroad stating that he is still subject to that legislation.

2. The agreement referred to in paragraphs 2 of Article 9 of the Convention shall be requested by the employer. The consent of each employed person concerned shall be required if so provided in the legislation of the Participating State referred to in the preceding paragraph.

ARTICLE 10

Where, under paragraph 2 of Article 9 of the Convention, the legislation of a Participating State is applicable to an employed person whose employer is not in the territory of that Participating State that legislation shall apply as if the person were employed at his place of residence for determining the competent institution.

PART IV

THE ADDING TOGETHER OF INSURANCE PERIODS

ARTICLE 11

1. In the cases referred to in Article 6, Article 15, Article 32 and Article 35 of the Convention, as the case may be, insurance periods shall be added together in accordance with the following rules—

- (a) to the insurance periods completed under the provisions of the legislation of one Participating State shall be added the insurance periods completed under the provisions of the legislation of any other Participating State to the extent necessary to make up the total insurance period required under the provisions of the legislation of the first-mentioned Participating States for the acquisition or maintenance of entitlement to benefit provided always these periods do not overlap. In the case of invalidity, old age, or survivors' benefits to be paid by the institutions of two or more Participating States in accordance with the provisions of Article 16 of the Convention, each of the institutions concerned shall separately add together all the insurance periods completed by the person concerned under the provisions of the legislation of all the Participating States to which he has been subject;

- (b) where a period of compulsory insurance completed in accordance with the legislation of one Participating State coincides with a period of voluntary insurance completed under the provisions of the legislation of another Participating State, the first only shall be taken into account;
 - (c) where the time at which certain insurance periods were completed under the provisions of the legislation of a Participating State cannot be accurately determined, such periods shall be presumed not to overlap with periods completed under the legislation of another Participating State and shall be taken into account as may be necessary;
 - (d) where, according to the legislation of one Participating State, certain insurance periods are taken into account only if they have been completed within a specified time, the institution which applies this legislation shall take into account only periods completed under the provisions of the legislation of another Participating State as have been completed within the same specified time.
2. Where under the provisions of the legislation of a Participating State a social security scheme falling within the scope of the Convention takes account of insurance periods in respect of schemes not falling within the scope of the Convention such insurance periods shall be considered by the Participating States to be taken into account for the purpose of adding together.

PART V

APPLICATION OF PART III OF THE CONVENTION

Chapter I: Invalidity, Old Age and Survivor's Benefits

ARTICLE 12

1. In Order to receive the benefits provided for in Articles 15 to 19 of the Convention, the claimant shall submit a claim to the institution of his place of residence in the manner prescribed by the legislation which that institution applies. If the claimant or the deceased person has not been subject to that legislation, the institution of the place of residence shall transmit the claim to the institution of the Participating State to whose legislation the claimant or the deceased person was last subject, indicating the date on which the claim was submitted. That date shall then be considered as the date of submission of the claim to the last-mentioned institution.

2. Where the claimant resides in the territory of a Participating State to whose legislation he or the deceased person has not been subject, he may submit his claim to the institution of the Participating State to whose legislation he or the deceased person was last subject.

ARTICLE 13

The submission of the claims referred to in Article 12 of this Agreement shall be subject to the following rules—

- (a) the claim shall be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed—
 - (i) either by the legislation of the Participating State in whose territory the claimant resides, in the case referred to in paragraph 1 of Article 12; or
 - (ii) by the legislation of the Participating State to which the claimant or the deceased person was last subject, in the case referred to in paragraph 2 of Article 12;
- (b) the accuracy of the information furnished by the claimant shall be substantiated by official documents attached to the claim form, or corroborated by the authorities of the Participating State in whose territory he resides;
- (c) the claimant shall indicate, as far as possible, the invalidity, old age, or survivors' benefit institution or institutions of each of the Participating States to whose legislation he or the deceased has or had been subject, or the employer or employers by whom he or the deceased has or had been employed in the territory of any Participating State, and submit any certificates of employment that may be in his possession.

ARTICLE 14

1. In order to benefit from the provisions of paragraph 2 of Article 18 of the Convention, the claimant shall, where required, submit a certificate regarding dependants who are residing in the territory of a Participating State other than that where the institution which pays the benefit is situated. The certificate shall be issued by the competent institution of the Participating State in whose territory the said dependants reside.

2. The certificate referred to in the preceding paragraph shall be valid for a period of twelve months from the date of issue and shall be renewable. When renewed, its validity shall begin to run from the date of its renewal. The claimant shall immediately notify the competent institution of any change to be made in the certificate. Such change shall have effect from the date on which it occurred.

3. Instead of the certificate referred to in paragraph 1 of this Article the competent institution may require the claimant to submit other relevant documents of proof of relationship of the dependants who are residing in the territory of a Participating State other than the relevant State, if such papers are normally issued by authorities of that Participating State.

4. The provisions of paragraph 2 of Article 18 of the Convention as well as the preceding paragraphs of this Article are to be construed without prejudice to the consideration of dependents residing outside of the territory of any Participating State.

ARTICLE 15

In determining the degree of invalidity, the institution of a Participating State shall take account of all the medical and administrative information assembled by the

institutions of any other Participating State. However, each institution shall retain the right to have the claimant examined by a doctor of its choice at its own expense.

ARTICLE 16

1. Claims shall be examined by the institution to which they have been submitted or to which they have been transmitted, as the case may be, as provided for in Article 12 of this Agreement. The institution shall be known as “the examining institution”.

2. The examining institution shall immediately advise all the institutions concerned so that the claim may be examined by them simultaneously and without delay.

ARTICLE 17

1. In examining claims, the examining institution shall use a form setting out details of, and the total of, the insurance periods completed by the insured person or in respect of the deceased person under the provisions of the legislation of all the Participating States concerned.

2. The transmission of this form to the institution of any other Participating State shall take the place of the transmission of supporting documents.

ARTICLE 18

1. The examining institution shall enter on the form referred to in paragraph 1 of Article 17 of this Agreement, the insurance periods completed under the provisions of its own legislation, and shall send a copy of the form to the appropriate institution of each Participating State to whose legislation the insured person or the deceased person has or had been subject, attaching any employment certificates produced by the claimant.

2. Where one or more institutions are involved, each institution shall complete the form submitted to it in accordance with the provisions of paragraph 1 of this Article, indicating the insurance periods completed under the legislation it applied, and return the form to the examining institution. That institution shall send the completed form to the other institutions involved, each of which shall determine entitlement under the legislation it applies having regard to the provisions of Article 15 of the Convention and shall state on the form the notional and actual amounts of any benefit calculated in accordance with the provisions of paragraph 2 of Article 16 of the Convention as well as, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 15 to 18 of the Convention, solely for the periods completed under the provisions of the legislation it applies. The form, which should also contain information concerning appeals procedure, including time-limits, shall then be returned to the examining institution.

3. When the examining institution has received all the information referred to in paragraph 2 of this Article, it shall determine entitlement under the provisions of the legislation it applies, having regard to the provisions of Article 15 of the Convention and shall calculate the notional and actual amounts of the benefit in accordance with the provisions of paragraphs 2 or 3 of Article 16 of the Convention as well as, where appropriate, the amount of any benefit which could be claimed without applying the

provisions of Articles 15 to 18 of the Convention, solely for the periods completed under the legislation it applies.

4. Should the examining institution, upon receiving the information referred to in paragraph 2 of this Article, find it necessary to apply the provisions of paragraph 1 of Article 19 of the Convention, it shall so inform the other institutions concerned.

ARTICLE 19

1. If the examining institution finds that the claimant is entitled to benefit under the provisions of the legislation it applies, without reference to the insurance periods completed under the provisions of the legislation of the other Participating State to which the insured person concerned or the deceased person was subject it shall make an immediate payment of this benefit on a provisional basis, subject to paragraph 6 of this Article.

2. Where the examining institution pays benefit under paragraph 1 of this Article, it shall deduct from the amount of such benefit the amount of benefit paid by any other institution as soon as it knows the amount in question.

3. If, while a claim is being examined, an institution other than the examining institution finds that the claimant is entitled to benefit in accordance with the legislation it applies without having to take account of insurance periods completed under the provisions of the legislation of the other Participating States to which the insured person or the deceased person was subject, it shall at once advise the examining institution, which shall immediately make a provisional payment of such benefit on behalf of the first institution, without prejudice, however, to the provisions of paragraph 2 of this Article.

4. Where the examining institution is required to pay benefit under paragraphs 1 and 3 of this Article, it shall apply only the highest rate of benefit, without prejudice, however, to the provisions of paragraph 2 of this Article.

5. Where the examining institution does not pay benefit under paragraphs 1 or 3 of this Article, and in cases where there might be delay it shall make to the insured person a recoverable advance determined in accordance with the provisions of paragraph 1 to 3 of Article 16 of the Convention.

6. When the final settlement of the benefit claim is determined, the examining institution and the other institutions concerned shall adjust their accounts as regards the amount of any provisional benefit paid or the advance made in accordance with the provisions of the preceding paragraphs of this Article. Sums overpaid by the said institutions may be deducted from the amount of benefits they are required to pay to the person concerned.

ARTICLE 20

In the case referred to in paragraph 2 of Article 19, of the Convention, the examining institution shall calculate the final amount of the supplement which each institution concerned has to pay and advise them accordingly.

ARTICLE 21

For the purpose of applying the provisions of paragraph 2 of Article 19, of the Convention, the provisions of Articles 18 and 20 of this Agreement shall apply, *mutatis mutandis*.

ARTICLE 22

After the examining institution has consulted with each of the institutions concerned in the payment of a claim and those institutions have agreed upon the amounts due from each of the institutions concerned, the examining institution shall inform the claimant to the component part of the total benefit payable by each institution. The examining institution shall also inform the claimant concerning appeals procedure, including time-limits prescribed by the legislations concerned.

ADMINISTRATIVE AND MEDICAL SUPERVISIONS

ARTICLE 23

1. If a recipient, of—

- (a) an invalidity benefit;
- (b) an old-age benefit awarded on retirement from gainful employment;
- (c) a survivors' benefit awarded on grounds of invalidity or incapacity for work;
- (d) a benefit awarded or payment by way of assistance subject to a means test,

stays or resides in the territory of a Participating State other than the competent State, administrative and medical supervision shall be exercised at the request of the competent institution by the institution of the place of stay or residence, in accordance with the rules laid down by the legislation which the latter institution applies. However, the competent institution may have the recipient examined by a doctor of its choice at its own expense.

2. If the supervision referred to in the preceding paragraph reveals that a person receiving benefit or payment by way of assistance is employed or has means in excess of the prescribed limit, that information and any other information requested shall be reported to the competent institution by the institution of the place of stay or residence.

ARTICLE 24

Where, after suspension of the benefit he had been receiving a person re-qualifies for benefit while residing in the territory of a Participating State other than the competent State, the institution concerned shall exchange all the information necessary to enable payment of benefit to be resumed.

PAYMENT OF BENEFITS

ARTICLE 25

The competent institution of a Participating State shall, in the normal case, pay a benefit to a beneficiary residing in the territory of another Participating State through the institution of the latter State in accordance with the provisions laid down in Articles 26 to 29 of this Agreement. However, where in any particular case the competent institution of the Participating State pays benefit directly to such beneficiary, it shall so notify the institution of the place of residence.

ARTICLE 26

The institution responsible for paying a benefit shall forward to the institution of the place of residence of the beneficiary (hereinafter called the "paying agency") a notice in duplicate, a copy of which is to be acknowledged by the paying agency, setting out the benefit due at the commencement of such payments to the beneficiary. The paying agency shall forward statements of payments made on behalf of the institution responsible for payments at intervals to be agreed upon by both institutions.

ARTICLE 27

1. Fifteen days before the date on which a benefit is payable, the institution responsible for payment shall remit, to the paying agency an amount sufficient to meet the cost of payments authorised on its behalf. The remittance shall be made to a bank to the account opened by the paying agency in its territory for that purpose. The institution responsible for payment shall at the same time notify the paying agency of the remittance.

2. The bank to which the amount has been transferred shall credit the paying agency with the amount.

3. The Participating States may make arrangements to cover cases where the remittance does not arrive in time, or where the amounts received are insufficient or in any other circumstance in the interest of the insured person concerned.

ARTICLE 28

1. The benefit due as shown in the notice referred to in Article 26 of this Agreement, shall be paid to the beneficiary by the paying agency on behalf of the competent institution in accordance with the procedure prescribed by the legislation which the paying agency applies.

2. If the paying agency, or any other agency it may designate, becomes aware of any matter or circumstance justifying the suspension or suppression of benefit, it shall immediately cease payment. This shall also be done when the beneficiary transfers his residence to the territory of a Participating State other than that in which the paying agency is situated.

3. The paying agency shall advise the institution responsible for payment of any reason for non-payment and inform it of the date of any event justifying such action.

ARTICLE 29

1. The payments referred to in paragraph 1 of Article 28 of this Agreement shall be examined at the end of each payment period in order to determine the amounts actually paid to the beneficiaries or their legal or appointed representatives and the amounts outstanding.
2. The total amount of the actual payments expressed in figures and in words shall be stated as agreeing with the payments effected by the paying agency and this statement shall be countersigned by the latter's representative.
3. The paying agency shall vouch for the fact that the payments shown are in order.

ARTICLE 30

When the recipient of a benefit payable under the legislation of one or more Participating States transfers his residence from the territory of one Participating State to that of another Participating State, he shall notify the competent institution or institutions responsible for the payment of such benefit and also, where appropriate, the paying agency.

Chapter II: Employment Injuries and Occupational Diseases General Provisions

ARTICLE 31

1. In order to receive the benefits in kind provided for in paragraph 1(a) of Article 21 of the Convention, the insured person shall submit to the institution of his place of residence a certificate that he is entitled to such benefits. This certificate shall be issued by the competent institution on the basis of information supplied, where appropriate, by the employer. In addition, where the legislation of the competent State so provides, the insured person shall submit to the institution of his place of residence an acknowledgement of the notification of his employment injury or occupational disease. If he fails to submit these documents, the institution of the place or residence shall apply for them to the competent institution.
2. The certificate referred to in the preceding paragraph shall be valid until such time as the institution of the place of residence receives notice of its cancellation.
3. For any claim for benefits in kind the insured person shall submit the supporting documents normally required for the provision of benefits in kind under the legislation of the Participating State in whose territory he resides.
4. In the event of hospitalisation the institution of the place of residence shall notify the competent institution, as soon as this information is available, of the date of entry, the probable duration of hospitalisation and the date of discharge.
5. The insured person shall advise the institution of his place of residence of any change of his circumstances which might affect his entitlement to benefits in kind, in particular of any change of his residence or stay. The competent institution shall likewise inform the institution of the place of residence when an insured person's entitlement to benefit ceases. The institution of the place of residence may at any time request the competent institution to supply any information in relation to the insured person's entitlement to benefit.

ARTICLE 32

1. In order to receive the cash benefits other than pensions provided for in paragraph 1 (b) of Article 22, of the Convention the insured person shall apply to the institution of his place of residence within the time limit required by the legislation applied by the competent institution on becoming incapable of work, and submit a certificate to the effect that he has ceased to work or, if the legislation applied by the competent institution or by the institution of the place of residence so requires, a certificate of incapacity for work issued by the doctor attending him. He shall also submit any other documents required by the legislation of the competent State, according to the type of benefit claimed.

2. The institution of the place of residence shall immediately transmit to the competent institution the documents referred to in the preceding paragraph of this Article, indicating at the same time the probable duration of incapacity for work.

3. As soon as possible, the institution of the place of residence shall undertake a medical examination of the insured person and make the necessary administrative enquiries regarding his case as if the said insured person were insured by it, and shall notify the competent institution without delay of the findings. The competent institution may, if it so desire, have the insured person concerned examined by a doctor of its choice at its own expense. Where this institution decides to refuse benefit on the grounds that the insured person has failed to comply with the rule relating to the investigation of his case, it shall notify him of this decision, and at the same time send a copy of the decision to the institution of the place of residence.

4. Termination of incapacity for work shall be notified without delay to the insured person by the institution of the place of residence which shall at the same time notify the competent institution. When this latter institution itself decides that the insured person is again capable of work, it shall notify him of its decision and at the same time send a copy of the decision to the institution of the place of residence.

5. When the insured person resumes work, he shall notify the competent institution, if so required by the legislation which that institution applies.

6. The competent institution shall pay cash benefits by any appropriate means, for example by international money order, and shall advise the institution of the place of residence of such payments. Where benefit is paid by the institution of the place of residence on behalf of the competent institution, the competent institution shall inform the insured person of his entitlement in the manner prescribed by the legislation which it applies, and shall also advise him of the institution charged with paying the benefits. It shall at the same time inform the institution of the place of residence of the amount of benefit payable, the dates of payment, and the maximum period for which it is payable under the provisions of the legislation of the competent State.

ARTICLE 33

1. In order to receive benefits in kind, the insured person referred to in paragraphs 2 or 3 of Article 9 of the Convention shall submit to the institution of his place of stay the certificate prescribed in paragraph 1 of Article 9 of this Agreement.

When he has submitted this certificate he shall be presumed to have satisfied the conditions for entitlement to benefits in kind.

2. The institution of the place of stay shall apply without delay to the competent institution to ascertain whether the insured person referred to in paragraph 1 of this Article satisfied the conditions for entitlement to benefits in kind. The institution of the place of stay shall provide the said benefits until a reply has been received from the competent institution, but for not longer than 30 days.

3. The competent institution shall reply to the institution of the place of stay within 10 days of receiving that institution's enquiry. If the reply is in the affirmative, the competent institution shall indicate the maximum period, if any, during which the benefits in kind may be provided under the legislation which it applies, and the institution of the place of stay shall continue to provide the said benefits.

4. Instead of the certificate referred to in paragraph 1 of this Article, the insured person may submit to the institution of the place of stay the certificate referred to in paragraph 1 of Article 34 of this Agreement. In that case, the provisions of the preceding paragraphs of this Article shall not apply.

5. The provisions of paragraph 4 of Article 31, of this Agreement shall apply *mutatis mutandis*.

ARTICLE 34

1. In order to receive the benefits in kind provided for in paragraph 1 of Article 22 of the Convention, the insured person shall submit to the institution of his place of residence a certificate that he is authorised to continue receiving such benefits and may continue to be provided under the legislation of the competent State. The competent institution shall send a copy of the certificate to the institution of the Participating State to whose territory the insured person concerned has returned or transferred his residence. The certificate may be issued after the insured person's departure, at his request, when for reasons outside his control, it could not have been prepared earlier.

2. The provisions of paragraph 5 of Article 21 of this Agreement shall apply *mutatis mutandis*.

3. The provisions of the preceding paragraphs of this Article shall apply, *mutatis mutandis*, in the case covered by paragraph 1 of Article 22 of the Convention.

ARTICLE 35

1. In order to receive cash benefits other than pensions provided for in paragraph 1 and subparagraph (c)(ii) of Article 22 of the Convention, the insured person shall apply to the institution of his place of stay within the time limit required by the legislation applied by the competent institution on becoming incapable of work, and submit a certificate of incapacity for work issued by the doctor attending him, if so required by the legislation applied by the competent institution or by the institution of the place of stay. He shall also indicate his address in the country of stay and the name and address of the competent institution.

2. The institution of the place of stay shall, without delay, transmit to the competent institution the documents referred to in the preceding paragraph of this Article indicating in particular the probable duration of incapacity for work.

3. persons other than those referred to in paragraph 2 and paragraph 3 of Article 9 of the Convention, whose state of health is found by medical examination to be such as not to prevent them from returning to the territory of the Participating State where they reside shall immediately be notified to this effect by the institution of the place of stay, which shall also send a copy of the notification to the competent institution.

4. In addition, the provisions of paragraphs 3 to 6 of Article 32 of this Agreement shall apply, *mutatis mutandis*.

ARTICLE 36

1. Where an employment injury or occupational disease occurs in the territory of a Participating State other than the competent State, it should be declared in accordance with the provisions of the legislation of the Participating State, without prejudice to any existing legal provisions in the territory of the Participating State where the injury or disease occurred, the application of which is mandatory in the case. This declaration shall be sent to the competent institution and, if necessary, a copy to the institution of the place of residence.

2. The institution of the Participating State in whose territory the employment injury or occupational disease occurred shall send in duplicate to the competent institution the medical certificates issued in that territory and, at the request of the latter institution, all relevant information.

3. The certificate indicating that the victim of the injury or disease has fully recovered or that his condition has established must, where appropriate, give a detailed description of his condition and contain information on the final consequences of the employment injury or occupational disease. Any costs incurred shall be met by the institution of the place of residence or by the institution of the place of stay, as the case may be, at the rate applied by that institution and at the expense of the competent institution.

4. The competent institution shall notify the institution of the place of residence or of stay, as the case may be, of the date of recovery of the insured person or of the stabilisation of his condition and also, if relevant, of any decision regarding an award of a pension.

ARTICLE 37

1. Where in a case covered by paragraph 1 of Article 21, or paragraph 1 of Article 22 of the Convention, the competent institution is in doubt as to whether its legislation relating to employment injuries or occupational diseases is applicable, it shall immediately inform the institution of the place of residence or the institution of the place of stay which shall cease to provide benefits in kind.

2. When a final decision on the question has been reached, the competent institution shall immediately notify the institution of the place of residence or the institution of the place of stay which has provided the benefits in kind. If it is accepted

that an employment injury or occupational disease has occurred, the institution of the place of residence or stay continue to provide the benefits in kind.

ARTICLE 38

1. To enable the degree of incapacity to be assessed, for the purpose of Article 27 of the Convention, the insured person shall provide the competent institution of the Participating State to whose legislation he was subject when the employment injury or occupational disease occurred with full information concerning any previous employment injuries or occupational diseases he suffered while subject to the legislation of any other Participating State, whatever the degree of incapacity caused by such previous employment injuries or occupational diseases.

2. The competent institution may apply to any other institution previously competent for whatever information it considers necessary.

ARTICLE 39

In order to benefit from the provisions of Article 29 of the Convention, the claimant shall, where required, submit to the competent institution a certificate regarding dependants who are residing in the territory of a Participating State other than the competent State. This certificate shall be issued by the institution designated by the competent authority of the Participating State in whose territory these dependants reside. In addition, the provisions of paragraphs 2, 3 and 4 of Article 14 of this Agreement shall apply *mutatis mutandis*.

ARTICLE 40

1. In a case covered by paragraph 1 of Article 30 of the Convention, the declaration notifying an occupational disease shall be sent either to the institution, competent in respect of occupational diseases, of the Participating State under the provisions of whose legislation the insured person was last engaged in an occupation liable to cause the disease under consideration, or to the institution of the place of residence, which shall transmit the declaration to the first-mentioned institution.

2. If the institution receiving the declaration considers that an occupation liable to cause the disease in question was last followed under the legislation of another Participating State, it shall transmit the declaration and the accompanying documents to the corresponding institution of that State and inform, at the same time, the person concerned.

3. If the institution of the Participating State under the provisions of whose legislation the insured person was last engaged in an occupation liable to cause the disease in question finds that there is failure to satisfy the conditions of that legislation, taking into account the provisions of paragraph 2 of Article 30 of the Convention, the institution in question—

- (a) shall immediately send to the institution of the Participating State under the provisions of whose legislation the insured person was

previously engaged in an occupation liable to cause the disease in question the declaration and all accompanying documents, including the findings and reports of medical examinations carried out by the former institution, together with a copy of the decision referred to in the following subparagraph;

- (b) shall, at the same time, inform the person concerned of its decision stating the grounds on which benefit is refused, the procedure and time-limits for appeal, and the date on which the records of the case were transmitted to the institution referred to in the preceding subparagraph.

4. If necessary, the case shall be referred, following the same procedure, to the corresponding institution of the Participating State under the provisions of whose legislation the insured person was first engaged in an occupation liable to cause the disease in question.

ARTICLE 41

1. Where an appeal is made against rejection of a claim by the institution of one of the Participating States under the provisions of whose legislation the insured person was engaged in an occupation liable to cause the disease in question, that institution shall inform the institution to which the declaration, if any, was transmitted, in accordance with the procedure prescribed in paragraph 3 of Article 41 of this Agreement, and subsequently inform it of the final decision taken.

2. Where entitlement to benefit is established under the legislation applied by the institution to which the declaration was transmitted in accordance with the procedure prescribed in paragraph 3 of Article 41 of this Agreement, account being taken of the provisions of paragraph 2 of Article 30 of the Convention that institution shall make advance payments to the person concerned the amounts being determined in consultation with the institution against whose decision the appeal was lodged. If, following the appeal, the latter institution is obliged to provide benefits, it shall refund to the former institution the advance payments made, deducting an equivalent amount from the benefit payable to the person concerned.

ARTICLE 42

In the case referred to in Article 31 of the Convention, the insured person shall provide the institution of the Participating State from which the claims benefit with full information on any benefits previously received by him in respect of the occupational disease in question and on any occupations he has followed since the award of these benefits. That institution may request such information as it considers necessary from any other previously competent institution.

ARTICLE 43

1. If a pension or allowance to supplement a pension provided for in accordance with the legislation of one Participating State is claimed by an insured person or his survivors residing in the territory of another Participating State the claim shall be submitted either to the competent institution or to the institution of the place of

residence which shall then transmit it to the competent institution. The claim must comply with the following rules—

- (a) it must be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed by the legislation of the competent State;
 - (b) the accuracy of the information supplied by the claimant must be substantiated by official documents attached to the claim form or corroborated by the competent authorities of the Participating State in whose territory he resides.
2. The competent institution shall convey its decision directly to the claimant.

ARTICLE 44

Pensions payable by the institution of a Participating State to claimants residing in the territory of another Participating State shall be paid in accordance with the provisions of Articles 25 to 30 of this Agreement.

Chapter III: Funeral Benefit

ARTICLE 45

Where a person residing in the territory of one Participating State claims a funeral benefit under the legislation of another Participating State, he shall submit his claim either to the competent institution, or to the institution of the place of residence, together with the supporting documents required under the legislation applied by the competent institution. The accuracy of the information supplied by the claimant shall be substantiated by official documents attached to the claim form or corroborated by the competent institution of the Participating State in whose territory he resides.

ARTICLE 46

1. In order to benefit from the provisions of Article 33 and 34 of the Convention, upon the application of the insured person concerned, the competent institution shall apply to the institution of the Participating State to whose legislation the person in respect of whom the funeral benefit is payable was last subject, for a certificate setting out the insurance periods completed by the person in respect of whom the funeral benefit is payable.

2. Where it is necessary to take into account insurance periods completed previously under the legislation of any other Participating State in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraph of this Article shall apply *mutatis mutandis*.

Chapter IV: Sickness and Maternity Benefits**ARTICLE 47**

1. In order to benefit from the provisions of Article 35 of the Convention, upon the application of the insured person the competent institution shall apply to the institution of the Participating State to whose legislation the insured person was last subject, for a certificate setting out the insurance periods completed under the legislation by the person concerned.

2. Where it is necessary to take into account insurance periods previously completed under the legislation of any other Participating State in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraph of this Article shall be applied *mutatis mutandis*.

ARTICLE 48

1. In order to receive the cash benefits provided for in paragraph 1 of Article 36 of the Convention, the insured person shall apply to the institution of his place of residence within the time limit required by the legislation applied by the competent institution on becoming incapable of work, and submit, where required, a certificate to the effect that he has ceased to work or, if the legislation applied by the competent institution or by the institution of the place of residence so requires, a certificate of incapacity for work issued by the doctor attending him. He shall also submit any other documents required by the legislation of the competent State, according to the type of benefit claimed.

2. The institution of the place of residence shall immediately transmit to the competent institution the documents referred to in the preceding paragraph of this Article, indicating at the same time the probable duration of incapacity for work.

3. As soon as possible, the institution of the place of residence shall undertake, if appropriate, a medical examination of the insured person and make the necessary administrative enquiries regarding his case, and shall notify the competent institution without delay of the findings. The competent institution may, if it so desires, have the insured person examined by a doctor of its choice at its own expense. Where this institution decides to refuse benefit on the ground that the insured person has failed to comply with the rules relating to the investigation of this case, it shall notify him of this decision and at the same time send a copy of the decision to the institution of the place of residence.

4. Termination of incapacity for work shall be notified without delay to the insured person by the institution of the place of residence, which shall at the same time notify the competent institution. When this latter institution itself decides that the insured person is again capable of work, it shall notify him of its decision and at the same time send a copy of the decision to the institution of the place of residence.

5. When the person concerned resumes work, he shall notify the competent institution, if so required by the legislation which that institution applies.

6. The competent institution shall pay cash benefits by any appropriate means, and shall advise the institution of the place of residence of such payments. Where benefit is paid by the institution of the place of residence on behalf of the competent

institution, the competent institution shall inform the insured person of his entitlement in the manner prescribed by the legislation which it applies, and shall also advise him of the institution charged with paying the benefit. It shall at the same time inform the institution of the place of residence of the amount of benefit payable, the dates of payment and maximum period from which it is payable under the legislation of the competent State.

ARTICLE 49

1. In order to receive the cash benefits provided for in paragraph 1(a) of Article 37 of the Convention, the insured person shall apply to the institution of his place of stay within the time-limit required by the legislation applied by the competent institution on becoming incapable of work, and submit a certificate of incapacity for work issued by the doctor attending him, if so required by the legislation applied by the competent institution or by the institution of the place of stay. He shall also indicate his address in the country of stay as well as the name and address of the competent institution.

2. The institution of the place of stay shall without delay transmit to the competent institution the documents referred to in the preceding paragraph of this Article indicating in particular the probable duration of incapacity for work.

3. An insured person other than one referred to in paragraph 2 and 3 of Article 9 of the Convention, whose state of health is found to be such as not to prevent him from returning to the territory of the Participating State where he resides shall immediately be notified to this effect by the institution of the place of stay, which shall also send a copy of the notification to the competent institution.

4. In addition, the provisions of paragraphs 3 to 6 of Article 50 of this Agreement shall apply *mutatis mutandis*.

ARTICLE 50

1. In order to benefit from the provisions of Article 38 of the Convention the person concerned shall, where required, submit to the competent institution a certificate regarding his dependants who are residing in the territory of a Participating State other than the competent State. This certificate shall be insured by the institution of the place of residence of the said dependants.

2. The certificate referred to in the preceding paragraph shall be valid for a period of twelve months from the date of issue and shall be renewable. When renewed, its validity shall begin to run from the date of its renewal. The person concerned shall immediately notify the competent institution of any change to be made in the certificate. Such change shall have effect from the date on which the contingency occurred.

3. Instead of the certificate referred to in paragraph 1 of this Article, the competent institution may require the person concerned to submit other relevant documents of proof of the relationship of the dependants who are residing in the territory of a Participating State other than the competent State, if such papers are normally issued by the authorities of that Participating State.

4. In addition, the provisions of paragraph 4 of Article 13 of the Agreement shall apply *mutatis mutandis*.

ARTICLE 51

For the purpose of applying the provisions of Article 39 of the Convention, the institution of a Participating State from which benefits are due may apply to the institution of another Participating State for the information concerning the period for which the latter has been providing such benefits for the same case of sickness or maternity.

PART VI

MISCELLANEOUS PROVISIONS

ARTICLE 52

The institution of the place of residence of a person who has received benefits that were not payable to him, or the institution designated by the competent authority of the Participating State in whose territory that person resides, shall co-operate with the institution of any other Participating State which has paid such benefits should the latter institution seek recovery from the person in question.

ARTICLE 53

Where the institution of a Participating State has paid to a beneficiary a sum in excess of his entitlement, that institution may request the institution of any other Participating State responsible for payment of corresponding benefits to that person to deduct the amount overpaid from the payments it is making to him. The latter institution shall withhold that amount to the extent which such a deduction is permissible under the provisions of the legislation it applies, as if the overpayment had been made by it, and transfer the amount so withheld to the creditor institution.

ARTICLE 54

Where the institution of a Participating State has made an advance payment of benefits, it may request the institution of any other Participating State responsible for payment of corresponding benefits to that person to deduct the amount of the advance from the payments due to him. The latter institution shall transfer the amount withheld to the creditor institution.

ARTICLE 55

1. Where entitlement to benefits is not recognised by the institution stated to be the competent one, the cost of the benefits in kind provided by the institution of the place of stay under the presumption in paragraph 1 of Article 33 of this Agreement shall be refunded by the first-mentioned institution.

2. Where the person concerned is not entitled to benefits in kind, expenditure incurred by the institution of the place of residence or stay in respect of benefits in kind provided in a case covered by paragraph 1 of Article 38 of this Agreement shall

be refunded by the institution designated by the competent institution of the Participating State concerned.

3. Where an institution has refunded benefits incorrectly paid in accordance with the provisions of paragraph 1 or 2 of this Article, it shall remain the creditor of the recipient for the amount of the benefits incorrectly paid.

ARTICLE 56

In the event of a dispute between the institutions or competent authorities of two or more Participating States concerning either the legislation applicable under Part II of the Convention or the institution which is to provide benefit, the person who would have been able to claim benefit in the absence of such a dispute shall provisionally receive the benefit prescribed by the legislation which the institution of the place of residence applies or, where the person concerned does not reside in the territory of one of the Participating State concerned, by the legislation of the Participating State to which he was previously last subject. After settlement of the dispute, the cost of the benefits paid provisionally shall be borne by the institution declared as liable to pay the benefits.

ARTICLE 57

Any agreements concluded under Article 23 or Article 24 of the Convention shall be communicated to the Director-General of the Organisation of Eastern Caribbean States within three months of the date of their entry into force.

ARTICLE 58

1. This Agreement may be amended by all the Participating States.
2. Any such amendment shall enter into force one month after notification or acceptance by all the Participating States.

PART VII

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 59

The submission of a claim for invalidity, old age or survivors' benefits to the institution of a Participating State after the entry into force of the Convention shall automatically entail the revision, in accordance with the provisions of the Convention, of benefits awarded for the same contingency by the institution or institutions of one or more other Participating States before its entry into force, save that in no circumstance shall such a revision operate to lessen the former rights of the person concerned.

ARTICLE 60

The Director-General shall, within one month, notify the Participating States, of any communication received in pursuance of the provisions of Article 59 of this Agreement.

ARTICLE 61

This Agreement shall enter into force on the same date as the Convention.
