

No. 4 of 1971

## REGULATIONS

Made Under

THE NATIONAL INSURANCE AND SOCIAL SECURITY ACT, 1969  
(No. 15 of 1969)

IN EXERCISE OF THE POWERS CONFERRED ON ME BY SECTION 51 OF THE NATIONAL INSURANCE AND SOCIAL SECURITY ACT, 1969, I HEREBY MAKE THE FOLLOWING REGULATIONS:—

1. These Regulations may be cited as the National Insurance and Social Security (Industrial Benefit) (Amendment) Regulations, 1971 and amend the National Insurance and Social Security (Industrial Benefit) Regulations, 1969 hereinafter referred to as the Principal Regulations.

2. The Principal Regulations are hereby amended in the following respects —

(a) In regulation 2 —

(i) the following definition shall be substituted for the definition of the expression “average wage” —

“average wage” means—

- (a) in the case of a person paid monthly, the total amount of wages paid for the month previous to the month in which the relevant accident occurred;
- (b) in the case of a person paid weekly or fortnightly, the total amount of wages paid for each complete week or fortnight, for the period of four weeks previous to the week in which the relevant accident occurred divided by four;
- (c) in the case of a person who was not employed by the same employer for the whole of the period of one month or four weeks as prescribed in sub-paragraph (a) or (b), the total wages paid or payable in that period by the last employer divided by the number of days worked for him in that period and multiplied by six;
- (d) in the case of a person employed continuously or otherwise, not being on a weekly, fortnightly or monthly basis, in the period of one month or four weeks, as the case may be, up to and including the day of the relevant accident, the weekly wages payable to a person employed in the same category at the same work by the same employer, or if there category employed in the same class of employment and in is no such person so employed, by such a person in the same category employed in the same class of employment and in the same locality;
- (e) in the case of a person who on the day of the relevant accident commenced his employment with an employer not being

the employer or employers for whom he had been working in the period of four weeks prior to the day of the relevant accident, the total wages paid or payable by his present employer for the day of the accident multiplied by six;”

- (ii) the following proviso shall be added to the definition of the expression “relevant wage” —

“Provided further that where a person has paid or has been credited with or has paid and has been credited with the greatest number of contributions in Group V, but whose average wage is not less than sixty dollars per week or two hundred and sixty dollars per month, the relevant wage of that person shall be sixty-five dollars and his weekly rate of injury benefit shall be thirty-nine dollars;”

- (b) In regulation 4(1) —

- (i) the word “during” shall be substituted for the word “for” where it appears after the word “benefit”;
- (ii) delete the remainder of the paragraph commencing with the word “only” and substitute the words “where the continuous period of incapacity for work exceeds three days he shall be entitled to receive such benefit with effect from the first day of such incapacity subject to the provisions of regulation 3”.

- (c) All the words commencing with the words “for the period” and ending with the word “accident” shall be deleted from regulation 7(3).

- (d) (i) Regulation 8 shall be renumbered as regulation 8(1) and the words “serious and wilful” inserted between the words “own” and “misconduct” in sub-paragraph (a);

- (ii) the following paragraph shall be added to regulation 8 as paragraph (2) thereof —

“(2) For the purposes of this regulation, “serious and wilful misconduct” includes —

- (a) the claimant being under the influence of drugs or intoxicating drink; or
- (b) a contravention of any law, regulation or order, whether statutory or otherwise, expressly made for the purpose of ensuring the safety or health of employed persons, or of preventing accidents to them, if the contravention was committed deliberately or with a reckless disregard of the terms of such law, regulation or order; or
- (c) the wilful removal or disregard by the claimant of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of insured persons; or

- (d) any other act or omission which the Director may, having regard to all the circumstances of an accident, determine to be serious and wilful misconduct.”.
- (e) In regulation 9 —
- (i) the word “during” shall be substituted for the word “for” in paragraph (1);
  - (ii) the words “(excluding Sunday or such other day in each week as shall have been determined under regulation 3)” shall be deleted from paragraph (1);
  - (iii) the word “paragraph” shall be substituted for the word “sub-paragraph” in paragraph 3(a).
- (f) Sub-paragraph (c) of paragraph (3) of regulation 9 shall be re-lettered as sub-paragraph (e), and the following sub-paragraphs inserted as sub-paragraphs (c) and (d) respectively —
- “(c) In any case where the extent of disablement resulting from the relevant loss of faculty would, but for the provisions of this sub-paragraph, be assessed at not less than fifteen per centum any disability to which the claimant is subject as a result both of the relevant injury and of some injury or disease received or contracted after the relevant accident shall be treated as having been incurred as a result of the relevant loss of faculty and the assessment shall take account of any such disablement to the extent to which the claimant would not have been subject thereto if the relevant accident had never occurred:
- Provided that any such disablement attributable to an accident and a disease or to two or more accidents or diseases (as the case may be) against which the claimant is insured under the Act shall only be treated, by virtue of this sub-paragraph, as having been incurred as a result of the loss of faculty resulting from one such accident or disease, being that one which occurred or developed last in point of time.
- (d) Where the injury from which a claimant suffers as a result of the relevant accident is one specified in the second column of the Second Schedule to these Regulations, whether or not such injury includes one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be assessed as resulting in the degree of disablement set against such injury in the third column of the said Schedule, subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case, where, having regard to the foregoing provisions of this regulation, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant injury.”.

- (g) The following regulation shall be added to the Principal Regulations immediately after regulation 9 —

“Special provision in reckoning period of incapacity

9A. For the purposes of this Part, any day which by virtue of regulation 3(b) is not treated as a day of incapacity for work shall not be disregarded in computing any period of consecutive days or the time for payment of injury or disablement benefit, but any such day shall be disregarded in determining the amount of injury or disablement benefit to be paid”.

- (h) In regulation 11 —

- (i) the words “as an in-patient for the relevant injury or loss of faculty” shall be inserted immediately after the word “rehabilitation”;
- (ii) the word “benefit” shall be substituted for the word “pension”;
- (iii) insert the words “and, in the case of a beneficiary who has received a disablement grant, account shall be taken of the assessment made with respect to him under regulation 9” immediately after the words “per centum”.

- (i) In regulation 12(2)(b) (i), the word “forty-five” shall be substituted for the word “fifty-five”.

- (j) In regulation 13(2) the word “of” shall be substituted for the word “after”.

- (k) In regulation 15 —

- (i) the words “under the foregoing provisions of these Regulations” shall be added immediately after the word “benefit” where it first appears in paragraph (1);
- (ii) a colon shall be substituted for the semi-colon at the end of sub-paragraph (b) of paragraph (1) and the following proviso shall be added thereto —

“Provided that where the dependant is the widow of the deceased, it shall not be necessary for her to prove that she is incapable of self-support;”.

- (l) In regulation 17 —

- (i) In the proviso to paragraph (a), the words “her basic rate of benefit but not the increases already awarded for her dependants” shall be substituted for the word “benefit”;
- (ii) the following proviso shall be added after the proviso to paragraph (a) —

“Provided further that a widow who remarries shall be entitled to a gratuity, on termination of her basic rate of benefit in consequence of her re-marriage, of an amount equal to 52 times the weekly rate of the basic benefit to

which she was then entitled but not of the increases already awarded in respect of dependants;”;

- (iii) the following words shall be added immediately after the word “education” in paragraph (c) — “or being above the age of sixteen years, he is unmarried and permanently incapable of work, so long as he remains so incapable”.
- (m) Regulation 18 of the Principal Regulations is hereby revoked and the following regulation substituted therefor —
- “18 (1) The weekly rates of death benefit payable to those persons who may qualify for the type of benefit mentioned in the first column of Part II of the First Schedule shall be the rates set out in the second column thereof, together with the increases payable as provided in the third column thereof, but not exceeding the maximum benefit payable as set out in the fourth column thereof.
- (2) Subject to the provisions of paragraph (3), the lump sum payable under paragraph (1) of regulation 15 shall be such a sum not exceeding one hundred times the relevant wage as may in the discretion of the Director be reasonable and proportionate to the loss sustained by the said dependant or dependants:
- Provided that in no case shall the lump sum be less than two thousand seven hundred dollars.
- (3) Where the lump sum payable under paragraph (1) of regulation 15 and distributed by the Director under paragraph (2) thereof results in the award to an individual beneficiary of an amount in excess of \$560, the Director shall, in lieu thereof, make from the Fund a periodical payment to the beneficiary of an annuity which, according to actuarial calculations approved by the Board, is equivalent in that case to the said amount:
- Provided that the annuity for a child under the age of sixteen years shall be calculated as if it were ceasing at the age of sixteen years and shall not exceed the amount of an orphan’s pension granted under the provisions of regulations 13, 16, and 17 but, after the age of sixteen years, shall be subject to the same conditions for the continuation of the payment of such a pension.”.
- (n) The following paragraphs shall be added to regulation 19 as paragraphs (3), (4) and (5)
- “(3) Any entry of the appropriate particulars of an accident made in a book kept for that purpose in accordance with the provisions of regulation 19A shall, if made as soon as practicable after the happening of an accident by the insured person or by some other person acting on his behalf, be sufficient notice of the accident for the purposes of this regulation.
- (4) In this regulation, the expression “employer” and “employers” mean, in relation to any person to whom paragraph (1) applies, the employer or employers, as the case may be, of that person at the time of the accident.

(5) In this regulation and in regulation 19A, the expression "appropriate particulars" means the following particulars —

- (a) the full name, address and occupation of the injured person;
- (b) the date and time of accident;
- (c) the place where accident happened;
- (d) the cause and nature of injury;
- (e) the name, address and occupation of the person giving the notice, if other than the injured person."

(o) The following regulation shall be inserted in the Principal Regulations after regulation 19 as regulation 19A —

"Obligations  
of employers

19A. (1) Every employer shall take reasonable steps to investigate the circumstances of every accident of which notice is given to him or to his servant or agent in accordance with the provisions of regulation 19 and, if there appears to him to be any discrepancy between the circumstances found by him as a result of his investigation and the circumstances appearing from the notice so given, he shall record the circumstances so found.

(2) Every employer shall on request furnish to the Director, within such reasonable period as may be required, such information and particulars as shall be required —

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

(3) Every owner or occupier (being an employer) of any premises or place liable to inspection under section 31 of the Act where no less than ten persons are normally employed at the same time on or about the same premises or place in connection with a trade or business carried on by the employer shall —

- (a) keep readily accessible a book or books in a form approved by the Director in which the appropriate particulars (as defined in regulation 19) of any accident causing personal injury to a person employed by the employer may be entered by that person or by some other person acting on his behalf; and
- (b) preserve every such book, when it is filled, for the period of 3 years beginning with the date of the last entry therein."

- (p) In paragraph (a) of regulation 27, the words “by reason of incapacity” shall be inserted immediately after the word “or” where it appears for the second time.
- (q) Part III of the First Schedule to the Principal Regulations is hereby amended by inserting the figures “1” and “40” respectively in the first and second columns thereof at the beginning thereof.
- (r) The Second Schedule to the Principal Regulations is hereby amended in the following respects —
- (i) in relation to Serial No. 19, the number “45” shall be substituted for the number “40” in the third column;
  - (ii) in relation to Serial No. 20, the number “35” shall be substituted for the number “30” in the third column;
  - (iii) in relation to Serial No. 22, the number “15” shall be substituted for the number “14” in the third column;
  - (iv) in relation to Serial No. 35, the number “5” shall be substituted for the number “4” in the third column;
  - (v) in relation to Serial No. 54, the number “15” shall be substituted for the number “10” in the third column;
  - (vi) in relation to Serial No. 55, the number “10” shall be substituted for the number “5” in the third column;
  - (vii) the following words shall be substituted for the words in the second column in relation to Serial No. 65 —  
“Loss of one eye or of the sight of one eye, the other being normal.”;
  - (viii) In Serial No. 66, the following words shall be substituted for the words in the second column of the Schedule —  
“Loss or destruction of the lens of one eye.”;
  - (ix) In Serial No. 68(i) the word “Vertebra” shall be substituted for the word “Spine”;
  - (x) The following words shall be added to Note 1. at the end of the Second Schedule after the word “percentage” —  
“Where the rating at ten per centum higher than that percentage results in an assessment which is not a whole number the assessment shall be fixed at the next higher whole number.”; and
  - (xi) The following shall be added to the Second Schedule as Note 4 —  
“4. If a joint or any other joint associated with it in the disablement is ankylosed in an unfavourable position, the degree of disablement for ankylosis of either joint may be increased at the discretion of the medical referee or medical board up to the degree of the disablement that would be assessed for the loss of, or for loss of use of, the limb or part of the body affected by that joint.”.

Made this 3rd day of March, 1971.

W. CARRINGTON,  
Minister of Labour and Social Security