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FIRST SCHEDULE
SECOND SCHEDULE

**THE SOCIAL SECURITY (EMPLOYMENT INJURY BENEFITS)
REGULATIONS, 1994**

[Gazetted 8th November 1994]

The Minister in exercise of the powers conferred on him by sections 25, 26, 27, 28, 29, 33 and 44 of the Social Security Ordinance, Cap. 266 makes the following Regulations -

**PART I
PRELIMINARY**

- 1.** These Regulations may be cited as the Social Security (Employment Injury Benefits) Regulations, 1994 and are deemed to have come into operation on the 1st day of January, 1991 Citation and commencement.
- 2.** In these Regulations, unless the context otherwise requires___ Interpretation.
- “adjudicating authority” means a medical appeal tribunal or the Director;
- “appeal tribunal” means an appeal tribunal constituted under these Regulations;
- “applicant” means any person who had made application to the Board for determination of any question under these Regulations;
- “benefit” means any benefit payable under the Ordinance;
- “claimant” means a person claiming benefit, includes, in relation to the review of an award or decision, a beneficiary of the award or other person affected by the decision;
- “determining authority” means as the case may require the Board or the Director or the Medical Board or the Appeal Tribunal or the Medical Appeal Tribunal appointed or constituted in accordance with any regulations for the time being in force under the Ordinance;

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“disablement grant” means disablement benefit paid or payable under these Regulations as the case may require whether in the form of a grant or otherwise.

“disablement pension” means disablement benefit paid or payable under these Regulations as the case may require whether in the form of a pension or otherwise;

“hearing” means oral hearing;

“insurable earnings” means the wages of an insured person determined in accordance with regulation 4 of the Social Security (Contributions) Regulations;

“contribution” means a person incapable of work as a result of a specific disease or bodily or mental disablement which is likely to remain permanent;

“loss of faculty” means loss of physical or mental capacity;

“medical appeal tribunal” means a medical appeal tribunal constituted under regulation 57;

“medical board” means a medical board constituted under regulation 53;

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

“medical practitioner” means a medical practitioner registered under the Medical Act (Cap 183) and includes a person practicing medicine outside the Virgin Islands who, not being a registered medical practitioner, is qualified to practice medicine and is not prohibited from so doing under the law of the place where he practices;

“member” in relation to a medical appeal tribunal includes the chairman thereof;

“pension” includes disablement benefit or a death benefit paid in the form of a pension;

“pensioner” means a person to whom any pension is available;

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“relevant accident”, “relevant injury” and “relevant disease” means respectively in relation to any benefit, the accident, injury or disease in respect of which the benefit is claimed or payable;

“relevant loss of faculty” means the loss of physical or mental capacity resulting from the relevant accident, injury or disease;

“relevant person” means the person by whom the conditions for benefit are to be satisfied;

“reserved question” means any question set out in regulation 37.

(2) Where in these Regulations it is a condition of title to benefit that a person is the wife, husband, widow or widower of an insured person, the Director may treat —

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

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

PART II
General

3. (1) Every insured person who suffers personal injury by accident shall give notice containing the specified particulars of the accident to the Board in writing as soon as may be practicable after the happening thereof and before the insured person has voluntarily left the employment in which he is insured.

Notice of
Accident.

(2) The notice required to be given under sub-regulation (1) may be given by some other person acting on his own behalf.

(3) A copy of the notice required to be given under sub-regulation (1) shall be given to the employer or to his servant or agent under whose supervision the insured person is employed at the time of the accident or to any person designated for that purpose by the employer.

(4) For the purpose of this regulation and regulation 4, the expression “specified particulars” means the particulars specified in the First Schedule.

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Obligations of employers.

4. (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 and if there appears 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) Where an insured person has been injured in the course of his employment and either ____

- (a) absents himself from work within a period of five consecutive days immediately succeeding the day which the injury occurred; or
- (b) dies within a period of five consecutive days immediately succeeding the day on which the injury occurred;

the employer shall report the accident and furnish the specified particulars of such accident in writing to the Board within a period of ten working days reckoned from the date which the injury occurred.

(3) Every employer who is required to do so by the Board shall furnish to an officer of the Board within such reasonable period as may be required, such information and particulars as shall be required of an 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.

Obligations of claimants for and beneficiaries in receipt of benefits.

5. (1) Subject to sub-regulations (2) and (3) every claimant for and every beneficiary in receipt of a benefit shall comply with every notice given to him by the Director which requires him –

- (a) to submit himself to a medical examination by a medical authority for the purpose of determining the effect of the relevant accident or the treatment appropriate to the relevant injury or loss of faculty; or
- (b) to submit himself to such medical treatment for the said injury or loss of faculty as is considered appropriate in his case by the medical practitioner in charge of the case or by any medical authority to whose examination he has submitted

PART III

Claims

6. A claimant shall make a claim for benefit in writing to the Director on the form provided by the Board for that purpose or in such written form as the Director may accept as sufficient in the circumstances, but notwithstanding such acceptance the Director may require the claimant to complete the appropriate form.

Claims to be made to the Board in writing.

7. No person shall be required to make a claim for disablement benefit in any case where incapacity for work due to the relevant accident continues beyond the end of the period of twenty-six weeks beginning with the day of the relevant accident.

No claim to be made for disablement benefit in certain cases.

8. The Board shall supply claim forms free of charge.

Supply of claim forms.

9. (1) Every person who makes a claim for benefit shall furnish such documents and information as the Director may require for the purpose of determining the claim and shall for that purpose attend at such place as the Director may direct.

Information to be given.

(2) Every person who makes a claim for benefit, shall, if required by the Director, furnish the following information in respect of the person for whom benefit is claimed:

(a) proof of identity, date of birth, usual place of residence, occupation and relationship to the insured person;

(b) in the case of a claim in respect of or based on the insurance of a wife, husband, a widow or widower, a certificate of the marriage,

together with a declaration signed by the other person, where appropriate, confirming the information given.

(3) Every person who makes a claim for death benefit shall furnish the death certificate of the deceased.

(4) Every person who makes a claim for a funeral grant shall furnish the following information__

(a) the death certificate of the deceased;

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(b) if required by the Director, the undertakers estimated cost of burial expenses or his statement of account;

(c) in the case of any council, association or other authority such particulars relating to the relevant person as may be required by the Director.

(5) The Director may in the absence of the certificate or documents aforementioned accept in support of claims__

(a) evidence of another person or other documentary evidence, as proof of kinship or marriage; and

(b) baptismal records or such other evidence as he considers satisfactory, as proof of age.

Date of claim

10. For the purpose of any claim to benefit, the day of receipt of claim at the office of the Board shall be deemed to be the date of the claim.

Amendment of claim forms and withdrawal of claim for disablement benefit.

11. (1) If a claim is defective at the date of its receipt by the Director, the Director may refer the claim to the claimant with directions to remedy the defect, and if the claim is resubmitted with the defect remedied within one month from the date on which it is so referred, the claim may be treated as if it had been correctly made in the first instance.

(2) A person who has made a claim for a benefit in accordance with these Regulations, may amend his claim at any time before a decision has been given thereon, by notice in writing delivered or sent to the office of the Board, and any claim so amended may be treated as if it had been correctly made in the first instance.

(3) If a person who has made a claim for disablement wishes, with a view to withdrawing his election to treat an injury benefit period as having come to an end, to withdraw a claim, he may deliver or send to the office of the Board written notice signed by him withdrawing the claim and before such notice is given, if it is received at the office of the Board before the claim has been determined, shall operate to withdraw the claim on the date of its receipt at the office.

Interchange of claims for other benefits.

12. Where it appears that a person who made a claim may be entitled to some other benefit, the claim may, where appropriate be treated by the Director, as a claim in the alternative for that other benefit.

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13. (1) A claim for injury benefit shall be made within thirty days from the day on which the injury the injury was sustained. Time for claiming benefit.

(2) A claim for --- 20/2001

(a) disablement benefit (and increases thereof on account of incapacity or hospital treatment), or

(b) death benefit,

shall be made within three months of the date, on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto.

(3) A claim for funeral grant, shall be made within six months of the date of the death of the deceased.

(4) A claim for medical expenses, shall be made not later than three months from the date on which the relevant expenses were incurred.

(5) Subject to sub-regulations (6), (7) and (8), a person who fails to make a claim within the prescribed time –

(a) for injury benefit shall be disqualified from receiving benefit in respect of any day more than fourteen days before the date on which the claim is made;

(b) (i) for disablement benefit (and increase thereof on account of incapacity or the need for constant attendance); or

(ii) for death benefit,

shall be disqualified from receiving benefit in respect of any period more than three months before the date on which the claim is made;

(c) for a funeral grant shall be disqualified from receiving benefit in respect of any period more than three months before the date on which the claim is made;

(d) for medical expenses shall be disqualified from receiving such expenses.

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(6) If in any case the claimant establishes to the satisfaction of the Director that

— (a) 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 benefit; and

(b) 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 sub-regulation (5) from receiving any benefit to which he would have been entitled if the claim had been made on the earlier date.

(7) No sum shall be paid by way of injury benefit, disablement benefit or increases of disablement benefit on account of incapacity or the need for constant attendance or hospital treatment), death benefit or medical expenses in respect of any period more than twelve months before the date on which the claim thereof is made.

(8) No sum shall be paid by way of a funeral grant if the claim is not made within twelve months after the date of entitlement thereto.

14. (1) Without prejudice to regulation 13, where it has been certified by a medical practitioner that a person is incapable of work and will continue to be incapable of work for the period specified in the certificate, a claim for injury benefit may be made by the person in respect of the period specified in the certificate and benefit may be paid for that period or for such shorter period (commencing immediately after the date of the medical certificate) as the Director may determine.

(2) Any claim for injury benefit made under regulation 13 may, if it is made on the form containing the medical certificate, be treated as a claim made also in respect of any days in the period specified in the certificate or in any such shorter period, as the case may be.

PART IV
Benefits

Injury Benefit

15. (1) For the purposes of this Part, the expression “injury benefit period” means in relation to any accident, the period of twenty-six weeks beginning with the day of the accident, or the part of that period for which disablement benefit in respect of the relevant accident is not available to the insured person.

Claims in
advance.

Interpretation.

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(2) A period of service, for the purposes of these regulations, be deemed to be continuous if a contract of service or apprenticeship, whether written or oral, expressed or implied, subsisted throughout that period.

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

Entitlement to
and rate of injury
benefit.

(2) In determining whether the insured person is capable of work on the day of the relevant injury, any part of that day before the injury occurred shall be disregarded.

(3) The daily rate of injury benefit shall be seventy-five percent of the average insurable weekly earnings of the insured person divided by five, except that –

- (a) where the insured person has been in the employment of an employer for less than thirteen contribution weeks immediately preceding the contribution week in which the contribution occurred, the average may be determined by the sum of the earnings over that period divided by the number of such weeks;
- (b) where by reason of the shortness of time during which the insured person has been in the employment of an employer, or the casual nature of the employment, or the terms of the employment it is impracticable to compute a rate of remuneration which would be representative of the average weekly insurable earnings of the insured person, regard may be had to the average weekly earnings during the thirteen contribution weeks previous to the contribution week in which the injury occurred of a person of similar earning capacity, in the same grade, employed at the same work by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade in the same class of employment;
- (c) where in any case it seems more equitable, injury benefit may be paid having regard to the earnings of the insured person at the time of the injury.

(4) Where an injury benefit is payable, if the Director is satisfied that as a result of the relevant injury the benefit requires the constant attendance of another person, the rate of benefit shall be increased by fifty per cent.

(5) An increase of benefit under paragraph (4) 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 except that no increase shall be payable in respect of a period for which the

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beneficiary is receiving medical treatment as an in-patient in a hospital or other similar institution.

17. (1) Where an insured person has already had an earlier continuous period of incapacity for work exceeding three days for which sickness or injury benefit under the Ordinance has been paid (or would have been payable had regulation 13 not applied) and the last day of such incapacity for work and the commencement of the further period of incapacity for work is not more than eight weeks, injury benefit is payable from the first day of the further period of incapacity at the rate calculated in accordance with regulation 16 (3).

(2) Where the duration of the earlier period of incapacity for work was less than three days, injury benefit in respect of the further period of incapacity for work shall be payable from the day of such further period which, treating the earlier period of incapacity as continuous with that of the further period for the purpose of this Regulation, is the fourth day of such incapacity for work.

(3) Subject to sub-regulation (4), injury benefit shall not be paid to an insured person for any day prior to the first date as from which he has been certified by a registered medical practitioner to have been incapable for work.

(4) A claim for injury benefit shall be made in the prescribed manner and shall be supported by the certificate of a medical practitioner or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work but the Director may, before deciding a claim to injury benefit, require the claimant to attend for and submit himself to medical examination by one or more medical practitioners appointed by the Board.

18. Subject to regulations 16 and 17, injury benefit shall be payable for five days in any one week, according to work schedule, and shall continue as long as the incapacity continues, subject to a maximum period of twenty-six weeks from the date on which the relevant injury occurred.

Disablement Benefit

19. (1) Subject to sub-regulation (2), an insured person shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with regulation 22 amounts to not less than one percent; and for the purposes of this regulation there shall be deemed not be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to one percent.

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(2) Disablement benefit shall not be available to an insured person until after the third day of the period of twenty-six weeks beginning with the day on which the relevant injury occurred or until after the last day (if any) of that period on which he is incapable of work as a result of the relevant injury.

Provided that, where he makes a claim for disablement benefit in respect of loss of faculty resulting from the relevant accident before the end of the said period of twenty-six weeks and does not withdraw it before it is finally determined then if on any day of that period not earlier than the making of the claim, he is not incapable of work as aforesaid, the fact that he is or may be so incapable on a subsequent day of that period shall be disregarded for the purposes of this paragraph.

20. (1) The weekly rate of disablement benefit for disablement assessed at one hundred percent shall be seventy-five percent of the average insurable weekly earnings of the insured person.

Rate and duration of disablement benefit.

(2) Where for the period taken into account the extent of disablement assessed as amounting to thirty percent or more, the disablement benefit payable shall be in the form of a pension payable weekly or monthly as the case may be, and shall be that percentage of total disability benefit:

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

(3) Where for the period taken into account the extent of the disability is assessed as amounting to less than thirty percent, disablement benefit shall be paid in the form of a grant, the amounts of which shall be calculated as follows –

- (a) if the period taken into account by the assessment is limited by reference to the claimant's life or is not less than seven years a percentage of total disability benefit equal to the percentage of assessed disability multiplied by three hundred and sixty-five;
- (b) in other cases a percentage of total disability equal to the percentage of assessed disability multiplied by the number of weeks in the assessed period.

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

Increase on account of constant attendance etc.

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(2) An increase of pension under sub-regulation (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:

Provided that no such increase shall be payable in respect for which the beneficiary is receiving medical treatment as an in-patient in a hospital or other similar institution.

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

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

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

Assessment of
extent of
disablement.

22. (1) Subject to the provisions of sub-regulations (2) to (6), for the purpose of disablement benefit, the extent of disablement shall be assessed, by reference to the disabilities incurred by the insured person as a result of the relevant loss of faculty in accordance with the following general principles-

- (a) Save as is provided in this paragraph, the disabilities to be taken into account shall be all the disabilities (whether or not involving loss of all earning power or additional expense) to which the insured person may be expected, having regard to his physical or mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
- (b) Any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to sub-regulation (2), it shall not be so treated in so far as the insured person either –

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- (i) would in any case have been subject thereto as a result of a congenital defect or of an injury or disease received or contracted before the relevant accident or injury, or
- (ii) would not have been subject thereto but for some injury or disease received or contracted after and not directly attributable to that accident;
- (c) the assessment shall be made without reference to the particular circumstances of the insured person other than age, sex and physical or mental condition.

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

Second Schedule

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

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

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

- (a) a provisional assessment shall be made, taking into account such shorter period only, not being less than thirteen weeks, as seems reasonable having regard to the condition of the claimant the possibility of changes in that condition;
- (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.

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

Provided that

- (a) such percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with regulation 19, the claimant's right to disablement benefit; and
- (b) a percentage of between thirty and one hundred which is not a multiple of ten shall be treated—
 - (i) if it is a multiple of five as being the nearest percentage which is a multiple of ten;
 - (ii) if it is not a multiple of five as being the nearest percentage which is a multiple of ten.

23. (1) Where a person suffers two or more successive accidents or diseases against which he is insured under the Ordinance he shall not for the same period be entitled to receive injury benefit and disablement benefit but shall be entitled to receive the benefit which is payable at the higher rate:

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

(2) Where a person suffers two or more successive accidents or diseases against which he is insured under the Ordinance he shall not for the same period be entitled to receive more than one disablement benefit, but in assessing his degree of disablement in connection with the second or subsequent claim to disablement benefit, the total degree of disablement arising from all the injuries and diseases shall be assessed and he shall be entitled to disablement benefit based on the assessment and the rate of benefit so payable shall be computed by reference to whichever of the average insurable earnings was the higher prior to any of the relevant accidents.

Successive
accidents and
diseases.

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(3) If during a period covered by an assessment of disablement for which a disablement grant has been paid, the claimant suffers a further accident the total degree of disablement arising from all the relevant injuries shall be assessed and he shall be entitled to disablement pension or grant as appropriate to such degree of disablement, but either—

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

Provided that prior to any reduction as in paragraphs (a) and (b) the rate of the disablement benefit which is payable on the second or subsequent occasion shall be computed by reference to whichever of the average insurable earnings was the higher prior to any of the relevant accidents.

Medical Expenses

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

Prescribed
medical
expenses.

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

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

- (a) the expenses reasonably incurred by the claimant; and
- (b) the expenses of obtaining treatment which so provided as to secure maximum effectiveness at minimum reasonable cost.

(3) The amount of the medical expenses which may be refunded under this Part shall in any case, be determined by the Director.

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Payment of
medical expenses
during absence
from the
Territory.

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

Medical
expenses
incurred outside
the Territory.

26. (1) Where an insured person suffers personal injury by accident-

- (a) in the Territory, and incurs medical expenses outside the Territory, the amount refunded under this Part shall not, subject to sub-regulation (2), exceed the amount that, in the opinion of the Director would have been refundable under regulation 24 had the expenses been incurred in the Territory, or
- (b) outside the Territory, and incurs medical expenses outside the Territory, the amount refunded under this Part shall not, subject to sub-regulation (2), exceed the amount of the expenses which may be refunded under regulation 24 and paragraph (a) of this sub-regulation; but

in no case shall the amount refunded exceed thirty thousand dollars.

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

Power of Board
to make direct
payment for
medical
expenses.

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

Board may
require
repayment of
medical expenses
refunded to
insured persons.

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

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(2) Any amount required by the Board to be repaid pursuant to sub-regulation (1) may be recovered as a debt due to the Board in accordance with section 38 of the Ordinance or by deduction from any other benefit payable by the Board to or in respect of the insured person.

Death Benefit

29. Death benefit shall be paid in the case of death due to employment injury or disease to the dependants of the deceased insured person in the following order of priority and for the following periods:

Entitlement to death benefit.

- (a) where the deceased was a man, to his widow, if she was wholly or mainly maintained by him at the time of death, the benefit shall be payable for life;
- (b) where the deceased was a woman to her widower, if at the date of death —
 - (i) he was then an invalid; and
 - (ii) he had been wholly or mainly maintained by his wife at the date of her death; and
 - (iii) he had no income from any source whether by way of pension or otherwise,

the benefit shall be payable so long as he continues to satisfy the aforementioned conditions as to validity and means;

- (c) to unmarried children, including adopted children, step-children and illegitimate children of the deceased who, at the date of death of the deceased were
 - (i) under the age of fifteen years, the benefit shall be payable until they attain the age of fifteen years;
 - (ii) under the age of eighteen years if in full time education and were living with or were wholly maintained by the deceased at the time of death, the benefit shall be payable until they attain the age of eighteen years or cease to be in full time education whichever first occurs; or

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(iii) invalid, the benefit shall be payable for the period which the invalidity continues;

(d) any other person, including a widow or widower or children, not qualified under paragraphs (a), (b) and (c) who is adjudged by the Director to have been wholly or in part dependant at the time of his death, or would but for the incapacity of disablement due to relevant accident have been so dependent:

Provided that a person shall not be deemed in part dependant upon the earnings of the deceased person unless such person was dependant partially on financial support from the deceased for the provision of the ordinary necessities of life suitable for a person in his position, and any such benefits shall be payable for a period of fifty-two weeks commencing from the date of the death of the deceased.

30. For the purpose of this Part, the expression “widow” or “widower” in relation to a person who had been married more than once refers only to the last husband or wife, as the case may be.

31. (1) The weekly rate of death benefit available to survivors shall be seventy five percent of the average insurable weekly earnings of the deceased, and shall be allocated as follows-

- (a) one-half of the benefit available for payment to the person qualified under regulation 29 (a) or (b);
- (b) one-sixth of the benefit available for payment to each child who is an orphan or who is an invalid, the rate of benefit payable may be fixed at one-third of the maximum benefit so available.
- (c) in the case of any other dependant qualified under regulation 29 (d), one- sixth of the benefit available for payment except that in respect of a person who was wholly dependant upon the deceased at the date of death the benefit payable may be fixed at up to one-half of the maximum benefits so available.

(2) Nothing in this Part shall prevent a person who was eligible for a death benefit because of the application of regulation 29 (in relation to the order of priority to be observed in making payments of death benefit) although otherwise entitled, from becoming eligible for such payment from and including the day following the cessation of benefit in respect of person or persons previously entitled to it:

Meaning of
“widow” and
“widower”

Determination of
weekly rate of
death benefit.

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Provided that in the case of a dependant under paragraph (c) of sub-regulation (1), a period of fifty-two weeks has not elapsed since the date of the death of the deceased and that any payment of benefit shall be limited to that balance of the said fifty-two weeks which remains.

(3) Subject to sub-regulations (4) and (5), death benefits payable in respect of a dependant under regulation 29 (a) (b) (c) and (d) shall cease on marriage, remarriage or cohabitation as the case may be.

(4) Death benefit which had been payable to a dependant notwithstanding the dependant's cohabitation or marriage (where cohabitation or remarriage existed at the date of death of the relevant deceased person), shall cease forthwith if the said dependant cohabits with or marries some other person.

(5) In the case of a widow whose benefit was payable under regulation 29 (a) or a widower whose benefit was payable under regulation 29 (b), a gratuity shall be payable on the termination of any pension in consequence of her or his remarriage or an amount equal to fifty-two times the weekly rate of pension to which she or he was then entitled.

Funeral Grant

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

Entitlement to funeral grant.

(2) Where-

- (a) death occurred at sea and the deceased person was buried at sea; or
- (b) the person who has met or is liable to meet the cost of the funeral of the deceased person cannot be found; or
- (c) the cost of the funeral was less than the amount of the grant,

the grant or as the case may be the remainder thereof, shall be paid to such person or persons as the Director in his discretion may decide, and no action shall lie before any tribunal or court against the Director in respect of or in connection with the exercise of his discretion under this paragraph.

(3) The amount of the funeral grant shall be fifteen hundred dollars.

PART V

Payments

33. (1) Injury benefit and increase of disablement benefit under regulation 21 of these Regulations, shall be paid in accordance with an award thereof as soon as is reasonably practicable.

Time and manner of payment of certain benefits and increases thereof.

(2) Funeral grant, death benefit payable in the form of a grant and medical expenses shall be payable in one sum.

(3) Notwithstanding sub-regulation (2), a death benefit payable in the form of a grant or a disablement grant, may be payable by instalments or such amounts and at such times as appear reasonable to the Director in the circumstances of the case, and an appeal shall not be brought against any decision that such grant shall be payable by instalments or as to the amounts of such instalments or the time of payment thereof but any decision may be varied by the Director at any time.

34. Subject to these Regulations, disablement pension or death benefits payable in the form of pensions shall be paid weekly in arrears by means of cheques or by such other method or at such other intervals of time as may be approved by the Board.

35. (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 sub-regulation (1) no account shall be taken of –

- (a) any period during which the Board has under consideration, any representation that a cheque containing the sum has not been received or has been lost, mislaid or stolen;
- (b) any period during which the person concerned is for the time being unable to act by reason of any medical incapacity, subject to the qualification 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.

Time and manner of payment of disablement pension and death benefit.

Extinguishment of right to sums payable by way of benefits which are not obtained within the prescribed time.

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(3) For the purpose of this regulation, a sum payable by way of benefit shall, subject to sub-regulation (4), be receivable-

- (a) in the case of a sum contained in a payable order or cheque-
 - (i) if the order is sent through the post, on the day on which it is authenticated for payment; and
 - (ii) if not sent through the post, on the date of issue of the order; and
- (b) in any other case, on the date on which the sum became payable.

(4) In determining when a sum is receivable under sub-regulation (3) the following provisions shall apply-

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

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

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Information to be given when obtaining payment of benefit.

36. (1) Every beneficiary and every person by whom or on whose behalf sums payable by way of benefits are receivable shall furnish in such manner and at such times as the Director may determine such certificates and other documents and such information of facts affecting the right to benefit or to the receipt thereof as may be required (either as a condition on which any sum or sums shall be receivable or otherwise) by the Director, and, in particular, shall notify the Director in writing, of any changes of circumstances which he might reasonable be expected to know might affect the right to benefit, or to the receipt thereof, as soon as is reasonable practicable after the occurrence thereof.

(2) Where any sum is receivable on account of any other person, the beneficiary shall, in such cases or classes of cases as the Director may direct, furnish a declaration signed by such other person confirming the particulars respecting him furnished by the claimant.

PART VI

Determination of Claims and Questions

Determination by the Board

Question for determination.

37. The following reserved questions arising under or in connection with the Ordinance shall be determined by the Board whose decisions shall be final subject to the provisions of these Regulations -

- (a) whether person is or was employed in insurable employment in accordance with section 18 of the Ordinance and regulation 3 of the Ordinance and regulation 3 of the Social Security (Modifications of Insurance and Voluntary Contributions) Regulations;
- (b) whether a person is or was in excepted employment in accordance with regulation 4 of the Social Security (Modifications of Insurance and Voluntary Contributions) Regulations;
- (c) who is or was liable for payment of contributions as the employer of any insured person.

Procedure for determination of questions by the Board.

38. (1) Any person desiring to obtain the decision of the Board on any question mentioned in regulation 37 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.

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(2) The Board shall take steps to bring the application and the particulars therein 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 to 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 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 inquiry shall be given to the applicant and to any person notified of the application in accordance with sub-regulation (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.

39. (1) Any question of law arising in connection with the determination by the Board of any question mentioned in regulation 37 may, if the Board thinks fit, be referred by the Board for decision to the High Court.

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

(2) Any person aggrieved by the decision of the Board on any question of law which is not referred in accordance with sub-regulation (1), may appeal from that decision to the High 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 will enable them to determine whether any question of law has arisen upon which they may wish to appeal.

(3) 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.

40. (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:

Review of decision of the Board.

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 39 shall apply in relation to a decision on review as they apply to the original determination or Decision.

**Determination by Director
Or appeal Tribunal**

Submissions of
questions to
Director.

41. (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 Ordinance, not being a reserved 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 or a disablement 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 not satisfied he may either-
 - (i) refer the question (as far as is practicable within fourteen days from the date on which it was submitted to him) to an appeal tribunal 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 sub-regulation (2) notice in writing of such reference shall be given to the claimant.

Declaration that
accident is an
employment
accident.

42. (1) Where, in connection with any claim for benefit, it is determined that the relevant accident was or was not an employment accident, an expressed declaration of that fact shall be made and recorded and subject to the provisions of sub-regulation (3) a

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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 sub-regulation (3) any person suffering personal injury by accident shall be entitled if he claims the employment was an employment accident, to have the question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit had 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 sub-regulation (1) or (2), the Director or 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 unnecessary to determine the question for the purposes of any claim to benefit, but any such refusal of the Director or appeal tribunal shall be subject to an appeal.

(4) Subject to the provisions of this Part as to appeal and review, any declaration under this regulation that any 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 the Territory,

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

43. (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 of appeal in respect of the decision to the appeal tribunal and shall be notified in writing of the decision and the reasons therefore and of his right of appeal therefrom:

Appeals to
Appeal Tribunal

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

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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 twenty-one days after the date of that 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.

44. (1) Reasonable notice of the time and place of the 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 has been 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 it thinks proper.

45. (1) Every hearing of 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 appeal tribunal -

(a) the claimant; and

(b) the Director;

and any other 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 to under these Regulations.

Time and place
of hearing before
appeal tribunal.

Hearings before
Appeal Tribunal.

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(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 by putting questions directly to any witness called at the hearing.

(5) For the purposes of arriving at a decision, or discussing a 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.

46. (1) An appeal tribunal shall-

Decisions of
Appeal Tribunal.

- (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 reason for its decision including findings on all questions of fact material thereto.

(2) Where the tribunal is unable to reach a 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 person who appears to the appeal tribunal to be interested.

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

Benefits payable
pending appeal.

(2) Where it appears to the Board 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 reviewed in accordance with these Regulations,

it may direct that payment of benefit shall be suspended in whole or in part until that question has been determined.

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Review of
decision
involving
payment of
increase of
benefit other than
disablement
grant.

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

Provided that, subject to sub-regulation (2), if 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 provisions of this sub-regulation from 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 sub-regulation (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 review was made;
- (b) the decision on review shall not in any event have effect for any period before the date on which the original decision took effect or would have taken effect if an award had been made;
- (c) 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 any 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 or circumstances took place.

(3) For the purpose of this regulation, where a decision is revised at the instance of the Director, under the Social Security (Decisions and Appeals) Regulations, the date on which it was 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 a disablement grant.

Directions for
payment to be
given on review.

49. (1) Where on review a decision is revised and as a result –

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- (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 the 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.

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

Director may refer reserved question arising to Board.

- (a) refer the reserved question for determination to the Board or the disablement question to a medical board or to a medical appeal tribunal as the case may require, to determine the same; and
- (b) deal with any other questions as if a reserved question or a 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 cases 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 other question.

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

Determination of Disablement Questions

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

Disablement questions to be determined by medical board or medical appeal tribunal.

- (a) whether the relevant accident has resulted in a loss of faculty;

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- (b) at what degree the extent of disablement resulting from 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 or an appeal tribunal in accordance with these Regulations.

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

52. Where a claimant or beneficiary for a disablement benefit has been referred by the Director to a medical board for determination of a disablement question 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 no later than the end of the period taken into account by the provisional assessment.

53. (1) Medical boards shall be appointed by the Board and shall, except as provided in regulation 54, consist of two or more medical practitioners, of whom one shall be appointed as Chairman.

(2) The members of the medical board shall hold office for such period as the Board may direct provided that at any time the Board may terminate 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 part in such case as a medical practitioner who has regularly attended the claimant or beneficiary or to whom any question has been referred for examination and report as a witness.

(4) A medical board shall not determine any question referred to it 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 two members, is unable to reach a decision on any such question.

(5) In any case in which by reason of sub-regulation (4) a medical board is unable to determine any question which has been referred to it, the reference to that

Further action of medical board in cases of provisional assessment.

Constitution of Medical Boards.

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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 paragraph (b) of sub-regulation (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.

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

Reference to single medical practitioner.

(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, and shall be subject to appeal and review and may be referred for consideration to a medical appeal tribunal accordingly.

(3) Regulations 55 and 56 shall apply to the proceedings or reference to a single medical practitioner as if such medical practitioner were a medical board constituted in accordance with these Regulations.

55. (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 Board, the Board may not proceed to determine the questions referred to them without his consent.

Notice of sitting and procedure of medical board.

(2) No person shall be entitled to be present during the consideration of any question by a medical board other than the claimant or beneficiary and any other person whom the medical board may, with the consent of the claimant or beneficiary, allow to be present as being a person who, in their opinion, is likely to assist them in the determination of that question.

56. (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) –

Notice of decision of 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 dissenting.

(2) As soon as may be practicable, the claimant or beneficiary and the Board shall be sent written notice of the 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

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decision was not unanimous, a statement that one of the members dissented and the reasons given by him for dissenting.

Constitution of
Medical Appeal
Tribunal.

57. (1) A medical appeal tribunal shall consist of a Chairman who is a Barrister of at least five years standing, appointed by the Minister and two members drawn by the Board from a panel of medical practitioners appointed by the Minister.

(2) The Chairman and members of a medical appeal tribunal shall hold office for such period as the Minister may direct, provided that at any time the Minister may terminate the appointment of the Chairman or member of the medical appeal tribunal.

(3) A person shall not act as a member of a medical appeal tribunal for the purpose of the consideration of any case referred to the tribunal if he-

(a) is or may be directly affected by that case; or

(b) has taken part in any such case as a medical assessor or as a medical practitioner who has regularly attended the claimant or beneficiary or who has acted as member of a medical board to whom any question has been referred for examination and report as an employer or a witness.

(4) A tribunal constituted as aforesaid shall not proceed to determine any case referred to them if any member thereof is unable to be present at the consideration of that case where, by reason of this paragraph, such tribunal is unable to determine any case referred to them, reference to that tribunal shall be revoked and the case shall forthwith be referred to another tribunal constituted as aforesaid.

Appeals from
medical boards
and reference to
medical appeal
tribunal.

58. (1) This regulation shall have effect where the case of a claimant for disablement benefit has been referred by the Director to a medical board for determination of the disablement question.

(2) If the claimant is dissatisfied with the decision of the medical board, he may appeal in accordance with regulation 59 and the case shall be referred to the medical appeal tribunal:

Provided that an appeal shall not lie against a provisional assessment of the extent of disablement before the expiration of two years from the date of the first reference of the case to the medical board nor where the period taken into account by the assessment falls wholly within the said two years.

(3) If the Director is of the opinion that any decision of a Medical Board ought to be considered by a medical appeal tribunal and he notifies a medical appeal tribunal in accordance with regulation 59 then the case shall be referred to a medical appeal tribunal

for its consideration, and the medical appeal tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

59. (1) An appeal by a claimant against a decision of a medical board shall be brought by giving notice of appeal at the office of the Board within three months after the notice of that decision has been given in accordance with regulation 56 or within such further period as the Chairman of a medical appeal tribunal may for good reason allow.

Notice of appeal and notification of the Board.

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

(3) For the purpose of securing the reference of a case to a medical appeal tribunal in accordance with regulation 58, where the Director is of the opinion that the decision of a medical board ought to be considered by a medical appeal tribunal, the Director may notify a medical appeal tribunal of his opinion in that respect within three months after the date of that decision or such longer period as the Chairman of a medical tribunal may for good reason allow.

60. (1) A medical appeal tribunal shall hold its hearings in public except in so far as the Chairman of the tribunal may for special reasons otherwise direct.

Procedure of medical appeal tribunal.

(2) Reasonable notice of the time and place at which a medical appeal tribunal will hear a case shall be given to the claimant and to the Director, and except with the consent of the claimant, the tribunal shall not proceed with the hearing unless such notice has been given.

(3) If a claimant, to whom notice of hearing has been duly given in accordance with sub-regulation (2) fails to appear at the hearing, the medical appeal tribunal may proceed to determine the case notwithstanding his absence, or may give such directions with a view to the determination of the case as it may think proper having regard to all the circumstances including any explanation offered for the absence.

(4) Where a medical appeal tribunal is unable to reach an unanimous decision on any case referred to it the decision of the majority of the members shall be the decision of the tribunal.

(5) Where in any case there is, before a medical appeal tribunal, 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 tribunal, the disclosure to the claimant of that advice or evidence would be so harmful to the claimant's health, such advice or evidence shall not be required to be disclosed to the claimant, but the tribunal shall not, by reason of such non-disclosure, be precluded from taking it into account for the purposes of its determination in the case.

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(6) The Director and the claimant shall have the right to be heard at a hearing by a medical appeal tribunal and may be represented by some person duly authorized by the tribunal, and for the purposes of the proceedings at such hearing, any such representative shall have all the rights and powers to which the person who he represents is entitled under these Regulations.

(7) Any person who exercises the right conferred by this Regulation to be heard at a hearing by a medical appeal tribunal may call witnesses and shall be given an opportunity to put questions directly to any witness called at the hearing.

61. (1) A medical appeal tribunal 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 the members of the tribunal, a statement of the reasons for its decision, including their findings on all questions of fact material to the decision.

(2) The claimant shall be sent written notice of the decision of a medical appeal tribunal, within twenty-one days of the decision making thereof, 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 record of that decision made in accordance with sub-regulation (1).

PART VII Miscellaneous

General

62. (1) If in respect of any injury a person claiming or entitled to injury benefit or disablement benefit increased on account of incapacity –

- (a) without good cause behaves in any manner calculated to retard his recovery or fails without good cause to answer any reasonable enquiries by an officer of the Board directed to ascertain whether he is doing so;
- (b) is absent from his place of residence without leaving word where he may be found;
- (c) undertakes work for which remuneration is or would ordinarily be payable,

he shall, subject to sub-regulations (4) to (7), and if the Director so decides, forfeit that benefit for such period as the Director determines.

Record and
notice of
decision of
medical appeal
tribunal.

Forfeiture of
benefit,
suspension of
proceedings or
claims and
suspension of
payment of
benefit.

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(2) If, without good cause -

- (a) a claimant fails to furnish to the prescribed person any information required for the determination of the claim or for any question arising in connection therewith; or
- (b) a beneficiary fails to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or to the receipt thereof, or to furnish as aforesaid any information required for the determination of any question arising in connection with the award; or
- (c) a claimant for, or a beneficiary or injury benefit, disablement benefit, or medical expenses fails to comply with any requirement of regulation 5,

he shall, subject to sub-regulations (4) to (7), and if the Director so decides, forfeit any benefit claimed in respect of the period of such failures.

(3) If any claimant or beneficiary willfully obstructs, or is guilty of other misconduct in connection with any examination or treatment to which he is required under regulation 5 to submit himself, or any proceedings under the Ordinance or these Regulations for determination of his right to benefit or for the receipt thereof, he shall subject to paragraphs (4) to (7), forfeit any benefit claimed for such period as the Director determines.

(4) In any case to which sub-regulation (1), (2) or (3) relates, proceedings on the claim or payment of benefit, as the case may be, may be suspended for such period as the Director determines.

(5) Nothing in this regulation providing for the forfeiture of benefit for any of the following matters that is to say -

- (a) for the failure to comply with the requirements of sub-regulation (1);
- (b) for failure to comply with the requirements of regulation 5;
- (c) for obstruction of, or misconduct in connection with medical examination or treatment;
- (d) for failure to comply with the requirements of sub-regulation (1) of regulation 63;

shall authorize the disentitlement of a claimant or beneficiary to benefit, for a period of more than six weeks on any forfeiture.

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(6) No person shall forfeit any benefit for refusal to undergo a surgical operation, not being one of minor character.

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

63. (1) A person in receipt of benefit shall inform the Board of any change in his circumstances affecting his continued right to receive such 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 person entitled to benefit to furnish from time to time documented evidence that he is alive and that the conditions governing the grant of such benefit continue to be fulfilled. If such evidence is not given to the Board within the time required, the Board may suspend payment of the benefit until the date on which the evidence is given.

64. (1) In the case of any person to whom benefit is payable or who is alleged to be entitled to benefit or by whom or on whose behalf a claim for benefit has been made, and who is under the age of sixteen years or is unable for the time being to act, where no person or authority has been duly appointed under the law to have charge of his estate the Board may, upon written application being made to it, appoint a person to exercise on behalf of the person under the age of sixteen years or person who is unable to act any right to which that child or person may be entitled under the Ordinance 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 immediately prior to the date on which the Board is notified that a person or authority has been duly appointed under the law;
- (b) a person who has not attained the age of eighteen shall not be capable of being appointed to act under this regulation;
- (c) the Board may at any time in its absolute discretion revoke the 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.

Obligations of
beneficiaries to
notify changes of
circumstances.

Persons unable to
act.

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(2) Anything required by these Regulations to be done by or to any such person as aforesaid who is a person under the age of sixteen years 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 such person or of his estate or by or to the person appointed under this regulation to act on behalf of such person, and the receipt of any person appointed under this regulation shall be a good discharge to the Board and the Fund for any sum paid, notwithstanding that such person has not attained the age of twenty-one.

65. (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 the benefit, and the provisions of these Regulations shall, subject to any necessary modifications, apply to any such claim:

Payment on death.

Provided that in the case of a funeral grant a claim be made by any person specified in sub-regulation (2).

(2) Subject to sub-regulation (7) any sum payable by way of benefit which is payable under an award on a claim proceeded with or made under sub-regulation (1) may be paid or distributed to or amongst persons claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons), in accordance with the law applicable to such distribution, and the provisions of regulation 31 shall apply to any such payment or distribution:

Provided that the receipt of any such person who has attained the age of sixteen years shall be a good discharge to the Board and the Fund for any sum so paid; and where the Board is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of sixteen, 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 sub-regulation) who satisfies the Board that he will apply the sum so paid for the benefit of the person under the age of sixteen.

(3) Subject to sub-regulation (7), any sum payable by way of benefit to the deceased, 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 to or amongst such persons as are mentioned in sub-regulation (2) and regulation 31 and sub-regulation (2) shall apply to any such payment or distribution:

Provided that, for the purposes of sub-regulation (1) of regulation 35, 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.

(4) In relation to a funeral grant, the reference in sub-regulation (2) to creditors shall include a reference to any person who gives an undertaking in writing to pay the whole or part of the deceased's funeral expenses, so, however, that any payment of funeral grant to a person by virtue of this sub-regulation shall be subject to the condition that if the person fails to carry out any such undertaking he shall repay to the Fund the funeral grant paid to him.

(5) Where any person has received an amount by way of funeral grant by virtue of this regulation and is entitled to reimbursement of the deceased's funeral expenses out of the deceased's estate, his right to such reimbursement shall be reduced by the amount of the funeral grant received by him.

(6) Sub-regulations (2) and (3) shall not apply unless written applications for payment is made to the Board within six (6) months from the date of the deceased's death or within such longer period as the Board may allow in any particular case.

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

66. Notwithstanding that a person is entitled to two or more of the benefits under the Ordinance at the same time then, except as provided in regulation 23 and this regulation, only one benefit shall be payable to such person and the benefit so payable shall be the benefit first awarded unless the other benefit is payable at a higher rate in which case he shall be paid the benefit at such higher rate:

Provided that –

- (a) if the last mentioned benefit ceases to be payable then nothing shall prevent the award of reinstatement of another benefit to which the person is entitled under the Ordinance; and
- (b) nothing in this regulation shall preclude the full duplication of –
 - (i) injury benefit with age benefit or death benefit;
 - (ii) disablement benefit with sickness benefit, maternity benefit, survivor's benefit, death benefit or age benefit;
 - (iii) death benefit with sickness benefit, maternity benefit, injury benefit, invalidity benefit, age benefit, or disablement benefit;
- (c) any other benefit may be duplicated in full with funeral grant;

Entitlement to more than one benefit.

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- (d) where an insured person is eligible for both disablement benefit and invalidity benefit then he shall be paid the benefit which is more favorable to him;
- (e) there shall be no duplication of a funeral grant paid under regulation 33 of the Social Security (Benefits) Regulation and funeral grant paid under regulation 32 of these Regulations;
- (f) there shall be no duplication of sickness benefit and an increase of disablement benefit on account of hospital treatment under regulation 21 (3) (a) or on account of incapacity under regulation 21 (3) (b).

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

Refund of benefit improperly paid.

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

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

68. A person shall not be disqualified from receiving employment injury benefit for any period during which that person is absent from the Territory but any benefit for which he is eligible shall be paid in the Territory to such representative acting for or on behalf of the person concerned as may be approved by the Director.

Special provisions relating to persons absent abroad.

69. (1) Subject to sub-regulation (2), a person shall be disqualified from receiving any benefit during which that person is undergoing imprisonment or detention in legal custody.

Special provisions relating to persons undergoing imprisonment or detention in legal custody.

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

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

Miscellaneous powers of the Board and appeal tribunal.

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

(3) 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 thereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

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

(2) Any 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 a loss of faculty, the decision _

- (a) may be reviewed under sub-regulation (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 appeal or review, shall be treated as deciding whether the relevant accident has so resulted both for the time about which the decision was given for any subsequent time, and for the purposes of this sub-regulation a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by a 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) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under sub-regulation (2) without the leave of the medical appeal tribunal and on a review under that sub-regulation the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and so far as Regulations so provide.

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(5) Subject to sub-regulations (1) and (4), a medical board may deal with a case on a review in any manner in which they could deal with it on the original reference to them, and in particular make a provisional assessment notwithstanding that the assessment under review was final, and regulation 58 shall apply to an application for a review under this regulation and to a decision of a medical board in connection with such claim.

72. On a review of any assessment under regulation 71(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.

Periods to be taken into account by assessment revised on grounds of unforeseen aggravation.

73. Where, in the opinion of the Director, an application for review raises a question as to the review of a decision of a medical appeal tribunal and, by virtue of a decision of a medical appeal tribunal and, by virtue of regulation 71 (4) such a decision may not be reviewed without the leave of a medical appeal tribunal, the Director shall submit the application to the medical appeal tribunal so that such tribunal may consider whether such leave shall be granted and shall not refer the question to a medical board with a view to a review of the decision unless that medical appeal tribunal grants such leave.

Application for review of decision of medical appeal tribunal.

74. (1) Subject to sub-regulation (3), 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 revised or varied on an appeal shall be treated as paid on account of any benefit which it is decided 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”).

Adjustment of benefits.

(2) For the purposes of sub-regulation (1) disablement grant under regulation 20 (3) shall be treated as periodical payment payable in respect of the period taken into account by the relevant assessment of the degree of disablement for that period, where it is more than three hundred sixty-five days or is not limited by reference to a definite date, being deemed to be one of three hundred and sixty-five days.

(3) Sub-regulations (1) and (2) shall not operate so as to require any sum paid on account of benefit to be treated as paid on account of other benefit to the extent to which is payable or treated as payable in respect of the common period, or other benefit.

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

75. (1) Where in any proceedings for

- (a) an offence under the Ordinance;
- (b) a determination of a question as to payment of contributions or
- (c) recovery of any sum due to the Fund,

a question arises which ought, under the Ordinance, or regulations made thereunder, to be determined by a named authority, the decision of the named authority shall be conclusive, unless the time limited for appealing has not yet expired, and in instances where there is an appeal pending, and a decision on that question is necessary, the proceedings shall be stayed pending the determination of the appeal.

(2) Where in any of the proceedings referred to in sub-regulation (1) a question arises which ought, under the Ordinance or regulations made thereunder, to be determined by a named authority, that question, shall, in instances where a decision is necessary, be referred to the named authority for its decision.

76. Any person who contravenes any requirement of these Regulations (not being a requirement to give notice of an accident or a requirement to submit himself to medical treatment or examination) commits an offence and shall where no penalty is otherwise provided in respect of the offence, be liable on summary conviction to a fine not exceeding two hundred dollars, or where the offence consists of continuing any such contravention or failure after conviction thereof, two hundred dollars together with a further two hundred and twenty-five dollars for each day on which it is so continued.

Breach of Regulations.

Authority for payment of expenses.

77. (1) There shall be paid out of the Fund to the Chairman of the appeal tribunal and a Chairman of the medical appeal tribunal such salary or other remuneration and such expenses as may be determined by the Board.

(2) There shall be paid –

- (a) to members of an appeal tribunal (not being the Chairman);
- (b) to a person or person appointed by the Board under regulation 38;
- (c) to members of medical boards (not being a Chairman);
- (d) to members of a medical appeal tribunal (not being a Chairman);

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such remuneration and such traveling or other allowances as the Board may determine and such sums shall be properly payable out of the Fund.

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

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FIRST SCHEDULE

(regulation 3)

Specified Particulars

1. Full name, address and occupation of injured person.
2. Date and time of accident.
3. Place of accident.
4. Cause and nature of injury.
5. Name, address and occupation of person reporting accident, if other than injured person.
6. Name, address and occupation of witness.

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SECOND SCHEDULE

(regulation 22)

INJURY	DEGREE OF DISABLEMENT PERCENTAGE
1. Loss of both hands or amputation at higher sites, or all of finger and thumbs	100
2. Loss of hand and foot.	100
3. Loss of both feet.	100
4. Total loss of sight.	100
5. Loss of remaining eye by one-eyed workman.	100
6. Loss of remaining arm by one-armed workman.	100
7. Loss of remaining leg by one-legged man.	100
8. Total paralysis.	100
9. Injuries resulting in being bedridden permanently.	100
10. Any other injury causing permanent total disablement	100
11. Very severe facial disfigurement.	100
12. Absolute deafness.	100
13. Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
14. Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential.	100
15. Forequarter or hindquarter amputation	100

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Amputation Cases – upper limbs (either arm)

16.	Loss of arm through shoulder joint.	85
17.	Loss of arm between shoulder and elbow.	80
18.	Loss of arm at elbow.	70
19.	Loss of arm between elbow and wrist.	65
20.	Loss of hand at wrist.	60
21.	Loss of thumb and four fingers of one hand.	60
22.	Loss of four fingers of one hand.	50
23.	Loss of thumb – both phalanges.	35
23.A.	Loss of thumb and metacarpal bone.	40
24.	Loss of three fingers on one hand -one phalanx	30 20
25.	Loss of index finger - three phalanges - two phalanges - one phalanx	15 11 9
26.	Loss of tip – No bone.	5
27.	Loss of two fingers on one hand.	20
28.	Loss of middle finger - three phalanges - two phalanges - one phalanx	12 9 7
29.	Loss of tip – No bone.	4
30.	Loss of ring or little finger - three phalanges - two phalanges	7 6

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(Guillotine amputation of tip without loss of bone)
- one phalanx 5

31. Loss of tip – No bone. 2

Amputation Cases – Lower Limbs

32. Amputation of both feet resulting in
bearing stumps. 90

33. Amputation through both feet proximal to the
metatarso-phalangeal joint. 80

34. Loss of all toes of both feet through the
metatarso-phalangeal joint. 40

35. Loss of all toes of both feet distal to the proximal
inter-phalangeal joint. 30

36. Loss of all toes of both feet distal to the proximal
inter-phalangeal joint 20

37. Amputation at hip. 90

38. Amputation at or above knee but below hip 80

39. Amputation below knee 60

40. Amputation of one foot resulting an end bearing stump. 40

41. Amputation through one foot proximal to the
metatarso-phalangeal joint. 30

42. Loss of all toes of one foot through the metatarso-phalangeal joint. 20

Other Injuries

A. Eye -

43. Loss of one eye, without complication, the other being normal. 40

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44. Loss of vision of one eye, without complications or disfigurement, the other being normal.	35
B. Toes of right of left foot/Great Toe _	14
45. Through metatarso-phalangeal joint.	3
46. Part, with some loss of bone.	
C. Any other toe -	3
47. Through metatarso-phalangeal joint.	1
48. Part, with some loss of bone.	
D. Two toes on one foot, excluding Great Toe _	5
49. Through metatarso-phalangeal joint.	2
50. Part, with some loss of bone.	
E. Three toes of one foot, excluding Great Toe -	6
51. Through metatarso-phalangeal joint.	3
52. Part, with some loss of bone.	
F. Four toes of one foot, excluding Great Toe -	9
53. Through metatarso-phalangeal joint.	3
54. Part, with some loss of bone.	

Made by the Minister this 28th day of November, 1994.

H.L. STOUT,
Minister responsible for Social Security.