

**SUBSIDIARY LEGISLATION**

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## SUBSIDIARY LEGISLATION

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10/1976.  
[30/1983  
9/1989  
29/1989  
25/1991].

### SOCIAL SECURITY (BENEFIT) REGULATIONS

*made under section 28*

Commencement.  
[29 of 1986].

[1st February 1976]

Short title.

1. These Regulations may be cited as the –  
  
SOCIAL SECURITY (BENEFIT) REGULATIONS.

Interpretation.  
[29/1989  
25/1991].

2. In these Regulations –

“appointed day” means the day appointed by the Minister pursuant to section 2(2) of the Act as the appointed day for the purposes of section 19 of the Act;

“benefit” means any benefit under the Act;

“claimant” means a person claiming benefit and includes in relation to the review of an award or decision a beneficiary under the award or affected by the decision;

Sub. Leg.  
5/1976.

“Collection Regulations” means the Social Security (Collection of Contributions) Regulations;

“confinement” means labour resulting in the issue of a living child or labour after twenty-eight weeks of pregnancy resulting in the issue of a child whether alive or dead;

“contribution” means insurance contribution;

“contribution year” has the meaning assigned to it by the Collection Regulations;

“day” means a period of twenty-four hours from midnight or such other period as may be prescribed;

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

“Director” means the Director, Social Security;

“insurance contribution” hereinafter referred to as “contribution” means the total of an employer’s and an employee’s contributions payable in accordance with the provisions of the Act;

- “insured person” means a person insured under Part II of the Act;
- “invalid” has the meaning prescribed to it in regulation 21;
- “medical examination” includes, where necessary, bacteriological and radiological tests and similar investigations and references to being medically examined shall be construed accordingly;
- “medical practitioner” means a registered medical practitioner and includes a person practising medicine outside Dominica who, not being a registered medical practitioner, is qualified to practise medicine and is not prohibited from so doing under the law of the place where he practises;
- “pension” means invalidity, age, survivors’, disablement or death benefit paid in the form of a pension, as the case may require;
- “relevant accident”, “relevant injury” and “relevant disease” means respectively, in relation to any benefit, the accident, injury or disease in respect of which that benefit is claimed or payable, and “relevant loss of faculty” means the loss of physical or mental faculty resulting from the relevant accident, injury or disease;
- \*“weekly insurable earnings” means the weekly or monthly earnings to the nearest dollar of the insured person, such earning not exceeding six hundred and eighty-three dollars per week or three thousand dollars per month respectively.

# PART I BENEFITS SICKNESS BENEFIT

3. Subject to these Regulations, sickness benefit shall be granted to an insured person who is rendered incapable of work as a result of some specific disease or bodily or mental disablement; and for this purpose an insured person shall be treated as incapable of work for any day during which he is required to abstain from work because he is under observation by reason of being a carrier, or his having been in contact with a case of infectious disease.

4. (1) An insured person who is eligible for sickness benefit shall not be entitled to receive such benefit for the first three days of any continuous period of incapacity for work but only as from the fourth day

\* The amendment to this definition effected by S.R.O 25/1991 came into operation on the 1st January, 1991 and applies only to benefits payable in respect of the period after that date. See however S.R.O. 7/1994.

Entitlement.

Day from which benefit is to commence; no entitlement after sixty.

of any such period; and for the purpose of computing the first three days of any continuous period of incapacity for work public holidays except Sundays shall be included.

(2) No insured person shall be entitled to sickness benefit on or after attaining the age of sixty years.

Manner of  
claiming and  
support of claim.

5. A claim for sickness benefit shall be made in the prescribed manner and shall be supported by a certificate of a registered medical practitioner or by such other evidence as the Director may require for the purpose of establishing the insured person's incapacity for work; and the Director may for such purpose require the claimant to attend for and submit himself to examination by one or more registered medical practitioners appointed by the Board.

Conditions which  
must be satisfied.

6. Sickness benefit shall be payable only if the insured person –

- (a) was engaged in employment as an employee pursuant to section 19 of the Act immediately prior to the day on which incapacity commenced; and
- (b) had been insured for not less than thirteen contribution weeks; and
- (c) had been employed in such employment during at least eight contribution weeks in the period of thirteen contribution weeks immediately preceding the contribution week in which the first day of the continuous period of incapacity for work occurred.

Duration.

7. Sickness benefit shall be paid for each day (excluding Sundays) as long as incapacity for work continues, subject to a maximum of twenty-six weeks in any continuous period of incapacity for work.

Rate.

8. (1) The daily rate of sickness benefit shall be sixty per cent of the average weekly insurable earnings of the insured person divided by six.

(2) Average weekly insurable earnings for the purpose of this regulation shall mean the sum of the weekly insurable earnings on which contributions were based including any contributions credited in accordance with regulation 65 over the continuous calendar period of thirteen contribution weeks immediately preceding the week in which incapacity began or was deemed to have begun, divided by thirteen:

Provided that any two or more periods of incapacity for work not separated by more than eight weeks shall be treated as one continuous period of incapacity for work starting on the first day of the first of these periods and the daily rate of benefit so payable in respect of later period or periods shall be the daily rate of benefit paid (or the daily rate of benefit that would have been payable had injury benefit been provided in accordance with section 28(1) of the Act not been paid), during the first period of incapacity.

9. An insured person entitled to payment of sickness benefit shall be disqualified for receiving benefit for such period as the Director may decide, but not exceeding six weeks if – Disqualification.

- (a) the claimant has become incapable of work through his own misconduct; or
- (b) the claimant fails, without good cause, to comply with a notice in writing by the Director requiring him to attend for and submit himself to medical or other examination; or
- (c) the claimant fails, without good cause, to observe any of the following rules of behavior, namely –
  - (i) to refrain from behaviour calculated to retard his recovery or to answer any reasonable enquiries by an officer of the Board directed to ascertaining whether he is doing so;
  - (ii) not to be absent from his place of residence without leaving word where he may be found; or
  - (iii) to do no work for which wages are or would ordinarily be payable.

#### MATERNITY BENEFIT

10. Subject to these Regulations, maternity benefit shall be granted in the case of the pregnancy and confinement of a woman who is an insured person. Entitlement.

11. Maternity benefit shall be payable only if the woman had been insured for not less than thirty contribution weeks and had been engaged in employment as an employee pursuant to section 19 of the Act during at least twenty contribution weeks in the period of thirty contribution weeks immediately preceding the contribution week in which occurs Conditions which must be satisfied.



the day which is six weeks before the expected date of confinement, or in which occurs the day from which benefit is claimed, whichever is the later.

Duration.  
[30/1983].

12. Subject to these Regulations, and if the opinion of a medical practitioner in support of each application is obtained, maternity benefit may be granted to a woman for a period starting from a date not earlier than six weeks and not later than three weeks before the expected date of confinement and continuing until the expiration of twelve weeks.

Rate.

13. (1) The daily rate of maternity benefit shall be sixty per cent of the average weekly insurable earnings of the insured person divided by six.

(2) Average weekly insurable earnings for the purposes of this regulation shall mean the sum of the weekly insurable earnings on which contributions were based including any contributions credited in accordance with regulation 65 over the continuous calendar period of thirty contribution weeks previous to the week in which benefit is due to commence, divided by thirty.

Support of claim.

14. Claims for maternity benefit shall be accompanied –

- (a) in the case of a claim made prior to the date of confinement, by a certificate issued by a registered medical practitioner as to the expected date of confinement; or
- (b) in the case of a claim made subsequent to the date of confinement, by a certificate issued by a registered medical practitioner or a registered midwife, as to the actual date of confinement.

However, the Director may accept such other evidence in support of such claims as in his opinion the special circumstances of the particular case so justify, or may require the claimant to attend for and submit herself to examination by one or more registered medical practitioners appointed by the Board.

Certificate of  
confinement.

15. An insured person who has been granted maternity benefit shall, as soon as possible after her confinement, obtain a certificate of her confinement from the registered medical practitioner or registered midwife who assisted thereat, and forward it to the office of the Board within three weeks after the date of confinement; but the Director may

accept other evidence in lieu of such certificate if, in his opinion, the special circumstances of any particular case so justify.

16. An insured person entitled to payment of maternity benefit shall be disqualified for receiving such benefit for such period as the Director may decide if during the period for which benefit is payable –

Disqualification.

- (a) she engages in remunerative work;
- (b) she fails without good cause to take due care of her health, or to answer any reasonable inquiries by an officer of the Board directed to ascertain whether she is doing so; or
- (c) she fails without good cause to comply with a notice in writing by the Director requiring her to attend for and submit herself to medical or other examination.

17. (1) The provisions of these Regulations relative to sickness benefit shall apply in relation to a case where there is incapacity for work arising from pathological complications of confinement immediately following the cessation of rights to maternity benefit; but in such a case the condition of regulation 6 shall be applied in relation to the period immediately preceding the first day as from which maternity benefit was payable.

Incapacity for work arising from complications of confinement.  
[30/1983  
29/1989  
25/1991].

\* (2) Subject to these Regulations a maternity grant of two hundred dollars shall be paid on the confinement of the wife of an insured man or on the confinement of an insured woman provided that the insured man or insured woman has paid not less than twenty-six weekly contributions during the period of fifty-two weeks preceding the date of confinement.

\* (3) Notwithstanding subregulation (2) if the combined weekly contributions of a husband and wife or spouses living in association for a period of not less than three years are not less than twenty-six during the period of fifty-two weeks preceding the date of confinement a grant shall be paid to the applicant.

(4) Claims for maternity grant shall be made by the insured person within fifteen days of the date of confinement and shall be supported by a certificate of confinement by a registered medical practitioner or a midwife or such other evidence as the Director may accept.

\* These provisions inserted by S.R.O. 25/1991 came into operation on the 1st January, 1991 and apply only to benefits payable in respect of the period after that date.

## FUNERAL GRANT

Entitlement to grant.

**18.** Subject to these Regulations, a funeral grant shall be payable on the death of any insured person who –

- (a) at the time of death was in receipt of sickness or maternity benefit; or
- (b) whilst not in receipt of sickness or maternity benefit at the date of death, would have been entitled to one or the other but for the fact of death; or
- (c) had been insured for not less than thirteen contribution weeks and had been engaged in employment as an employee pursuant to section 19 of the Act during at least eight contribution weeks in the period of thirteen contribution weeks immediately preceding the contribution week, in which death occurred; or
- (d) at the time of death was receiving or had received or satisfied the contribution conditions for invalidity benefit or age benefit; or
- (e) being a woman, dies as a result of maternity and at the time of her death, had been insured for at least thirty weeks and had been engaged in employment as an employee pursuant to section 10 of the Act during at least twenty contribution weeks in the period of thirty contribution weeks immediately preceding the contribution week in which death occurred; or
- (f) dies as a result of a personal injury caused by accident arising out of and in the course of his employment.

Persons who may receive grant.

**19. (1)** Subject to these Regulations, funeral grant shall be paid to the person who has met or is liable to meet the cost of the funeral of the deceased person.

(2) Where –

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

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

- \* 20. The amount of the funeral grant shall be twelve hundred dollars.

Amount of grant.  
[30/1983  
9/1989  
25/1991].

**INVALIDITY BENEFIT**

21. For the purpose of these Regulations, the term "invalid" means a person incapable of work as a result of a specific disease or bodily or mental disablement which is likely to remain permanent.

Meaning of  
"invalid".

22. (1) Subject to these Regulations, an insured person who –

Entitlement to  
invalidity pension  
and rate thereof.  
[30/1983].

(a) is an invalid;

(b) has complied with the contribution conditions set out in subregulation (2); and

(c) is under sixty years of age,

is entitled to an invalidity pension for so long as the invalidity continues.

(2) Subject to these Regulations, an insured person is entitled to an invalidity pension if one hundred and fifty contributions have actually been paid in respect of such person or credited under regulation 70(c).

(3) The annual rate of pension shall be thirty per cent of the average annual insurable earnings supplemented by –

(a) two per cent of average annual insurable earnings for each unit of fifty contributions actually paid in respect of or credited to the insured person, subsequent to the first five hundred of such contributions up to a total of seven hundred and fifty such contributions; and

(b) one per cent of average annual insurable earnings for each unit of fifty actually paid in respect of or credited to the insured person thereafter,

but in no case shall invalidity pension exceed sixty per cent of the average annual insurable earnings nor be less than the sum of twenty-five dollars per week.

(4) The weekly rate of pension shall be the annual rate of pension divided by fifty-two; and the sum shall be calculated to the nearest multiple of ten cents.

\* The amendment to this section effected by S.R.O. 25/1991 came into operation on the 1st January, 1991 and applies only to benefits payable in respect of the period after that date.

Entitlement to  
invalidity grant  
and amount  
thereof.

**23. (1)** Subject to these Regulations, an insured person who does not satisfy the provisions of regulation 22 but who –

- (a) is an invalid;
- (b) has not less than fifty contributions paid or credited in respect of him; and
- (c) is under sixty years of age,

shall be entitled to an invalidity grant.

(2) The invalidity grant shall be a lump sum grant equal to three times the average weekly insurable earnings for each fifty contributions actually paid in respect of or credited to the insured person.

#### MISCELLANEOUS PROVISIONS RELATING TO INVALIDITY BENEFIT

Extent to which  
contributions  
may be applied  
in respect of  
future claims to  
benefit.

**24. (1)** Should invalidity cease, the contributions taken into account for the purposes of invalidity grant shall not be applied towards the satisfaction of the contribution conditions for any subsequent claim to benefit of any description save only a funeral grant.

(2) On cessation of an invalidity pension, nothing in these Regulations shall prevent the contributions on which the said invalidity pension was based from being taken into account for the purposes of establishing title toward the rate of any subsequent invalidity pension or for age pension.

Average annual  
insurable  
earnings.

**25. (1)** The average annual insurable earnings for the purposes of regulation 22 shall be one of the following:

- (a) where more than three years have elapsed since the appointed day, it shall be the sum of weekly insurable earnings during the best three contribution years of the last ten contribution years of the insured person or such lesser number as represents the total number of contribution years since the appointed day, divided by three;
- (b) where more than three years have not elapsed since the appointed day and the insured person was not a member of the Dominica National Provident Fund, it shall be the sum of all the weekly insurable earnings since the appointed day divided by the number of weeks after the appointed day and multiplied by fifty-two;

- (c) where more than three years have not elapsed since the appointed day and the insured person was a member of the Dominica National Provident Fund for a period which, along with the period since the appointed day makes it three years or more, it shall be the sum of all (weekly) insurable earnings for the last three years divided by three;
- (d) where more than three years have not elapsed since the appointed day and the insured person was a member of the Dominica National Provident Fund for a period which along with the period since the appointed day does not make it three years, it shall be the sum of all (weekly) insurable earnings since the commencement of his membership of the Dominica National Provident Fund divided by the number of weeks in such period and multiplied by fifty-two.

(2) For the purposes of subregulation (1)(c) and (d) ten times the National Provident Fund contribution shall be deemed to be the insurable earning of the period to which such contribution relates and a monthly contribution shall be deemed to be equal to contribution for four weeks.

26. Average weekly insurable earnings for the purposes of regulation 23 shall be the sum of the weekly insurable earnings to the insured person divided by the number of weeks of contributions.

Average weekly  
insurable  
earnings.

27. All claims to invalidity benefit shall be accompanied by a certificate of permanent incapacity for work setting out the nature of the incapacity and completed by a registered medical practitioner; but the Director may require the claimant to attend for and submit himself to examination by one or more registered medical practitioners appointed by the Board.

Certificate of  
permanent  
incapacity for  
work.

28. An insured person entitled to payment of invalidity pension shall be disqualified for receiving such benefit for such period as the Director may decide, if –

Disqualification.

- (a) the claimant has become incapable of work through his own misconduct; or
- (b) the claimant fails, without good cause, to comply with a notice in writing by the Director requiring him to attend for and submit himself to medical or other examination; or

(c) the claimant fails, without good cause, to observe any of the following rules of behaviour, namely –

- (i) to refrain from behaviour calculated to retard his recovery, or to answer any reasonable enquiries by an officer of the Board directed to ascertaining whether he is doing so;
- (ii) not to be absent from his place of residence without leaving word where he may be found; or
- (iii) to do no work for which wages are or would ordinarily be payable.

### AGE BENEFIT

Entitlement to  
age pension.  
[30/1983  
29/1989].

**29. (1)** Subject to these Regulations, age pension shall be payable to an insured person who has attained the age of sixty years and –

- (a) in respect of whom not less than one hundred and fifty contributions have been actually paid including credits under regulation 70(c); and
- (b) in respect of whom or to whom not less than five hundred contributions have been actually paid or credited, as the case may be.

(2) Notwithstanding subregulation (1) an insured person who has attained the age of sixty years and has not less than three hundred contributions but less than five hundred contributions paid in respect of and credited to him, shall be entitled to opt for a grant under these Regulations or to that proportionate part of the pension that his actual contributions, paid and credited, would bear to the required five hundred contributions under subregulation (1). Notwithstanding, if the insured person opts for a pension he shall not receive less than twenty-five dollars a week.

Rate of pension.  
[25/1991].

**\*30. (1)** The annual rate of pension shall be thirty per cent of the average annual insurable earnings supplemented by –

- (a) two per cent of average annual insurable earnings for each unit of fifty contributions actually paid in respect of or credited to the insured person subsequent to the first five hundred of such contributions up to a total of seven hundred and fifty such contributions; and

\* The amendment to this section effected by S.R.O. 25/1991 came into operation on the 1st January, 1991 and applies only to benefits payable in respect of the period after that date.

- (b) one per cent of average annual insurable earnings for each unit of fifty contributions actually paid in respect of or credited to the insured person, thereafter;

but in no case shall age pension exceed seventy per cent of average annual insurable earnings.

(2) The weekly rate of age pension shall be the annual rate of pension divided by fifty-two; and the sum shall be calculated to the nearest multiple of ten cents.

(3) A worker may delay the receipt of age pension when it becomes payable. For every full year of delay since the worker first qualified for the pension the amount of pension shall be increased by an amount equal to six per cent for every full year of the delay.

**31.** Subject to these Regulations, an insured person who does not satisfy the provisions of regulation 29 but who – Entitlement to age grant.

- (a) has attained the age of sixty years; and
- (b) has not less than fifty contributions paid in respect of or credited to him,

shall be entitled to an age grant.

**32.** The age grant shall be a lump sum grant equal to three times the average weekly insurable earnings for each fifty contributions actually paid in respect of or credited to the insured person. Amount of grant.

#### TRANSITIONAL PROVISIONS - AGE PENSION

**33. (1)** A person who is over the age of fifty years at the appointed day shall be granted special credited contributions equal to fifty contributions for each year of age in excess of fifty years subject to a maximum special credit of three hundred and fifty contributions. Special provisions for persons over fifty at appointed date.

(2) Such special credits –

- (a) shall be awarded for age pension purposes only;
- (b) shall not be taken into account in assessing the average annual insurable earnings; and
- (c) shall only be used to the extent necessary to enable an insured person to qualify for an age pension of thirty per cent of average annual insurable earnings.



(3) In the case of a person insured under section 19(1)(a) "over the age of fifty years at the appointed day" means over the age of fifty years on the day he became a member of the Dominica National Provident Fund.

#### MISCELLANEOUS PROVISIONS RELATING TO AGE BENEFIT

Average annual  
insurable  
earnings.  
[30/1983].

34. (1) The average annual insurable earning for purposes of regulation 30 shall be one of the following:

- (a) where more than three years have elapsed since the appointed day, it shall be the sum of weekly insurable earnings during the best three contribution years of the last ten contribution years of the insured person or such lesser number as represents the total number of contribution years since the appointed day, divided by three;
- (b) where more than three years have not elapsed since the appointed day, it shall be the sum of all the weekly insurable earnings since the appointed day divided by the number of weeks after the appointed day and multiplied by fifty-two;
- (c) where more than three years have not elapsed since the appointed day and the insured person was a member of the Dominica National Provident Fund for a period which along with the period since the appointed day is three years or more, it shall be the sum of all weekly insurable earnings for the last three years divided by three;
- (d) where more than three years have not elapsed since the appointed day and the insured person was a member of the Dominica National Provident Fund for a period which along with the period since the appointed day does not make it three years, it shall be the sum of all (weekly) insurable earnings since the commencement of his membership of the Dominica National Provident Fund divided by the number of weeks in such period and multiplied by fifty-two.

(2) For the purposes of subregulation (1)(c) and (d), ten times the National Provident Fund contribution shall be deemed to be the insurable earning of the period to which such contribution relates and

a monthly contribution shall be deemed to be equal to contribution for four weeks.

35. Average weekly insurable earnings for the purposes of regulation 32 shall be the sum of the weekly insurable earnings of the insured person which can be taken into account having regard to these Regulations, divided by the number of weeks of contributions.

Average weekly  
insurable earnings.

### **SURVIVORS' BENEFIT**

36. (1) Subject to these Regulations, survivors' benefit shall be payable to the widow or widower, as the case may be, and children of a deceased insured person if, at the time of his death, such insured person –

Entitlement to  
survivors'  
benefit. Rate of  
survivors'  
pension and  
amount of  
survivors' grant.

- (a) was in receipt of an invalidity pension or an age pension; or
- (b) would have been entitled to an invalidity pension or grant had he been deemed to be an invalid at the time of his death; or
- (c) was sixty years of age or over and would have been entitled to an age pension or grant had he made a claim for such benefit.

(2) Where at the date of his death the deceased insured person was in receipt of an invalidity or age pension or would have been entitled to an invalidity pension had he been deemed to be an invalid or to an age pension, the benefit payable shall be a pension, in these Regulations referred to as a "survivors' pension".

(3) Where at the date of his death the deceased insured person would have been entitled to an invalidity grant had he been deemed to be an invalid or to an age grant, the benefit payable shall be a grant, in these Regulations referred to as a "survivors' grant".

(4) Survivors' benefit shall not be payable in respect of a marriage contracted after the insured person had been granted an invalidity pension or an age pension.

(5) (a) The annual rate of survivors' pension shall not exceed the rate of invalidity or age pension which was payable or would have been payable to the deceased insured person at the time of his death.

(b) The amount of survivors' grant shall not exceed the amount of invalidity or age grant which would have been payable to the deceased person at the time of his death.

Entitlement of widow or widower to survivors' pension and duration thereof.  
[30/1983  
29/1989  
25/1991].

**\*37. (1) A widow or widower who –**

- (a) at the date of her or his spouse's death was fifty years old or over and was married to her or him for not less than three years shall be entitled to a survivors' pension for life but no such widow or widower shall be so entitled during any period that she or he is gainfully employed;
- (b) at the date of her or his spouse's death was married to her or him for not less than three years and was at the date of her or his death an invalid shall be entitled to a survivors' pension for the period during which the invalidity continues;
- (c) at the date of her or his spouse's death was not fifty years old or over or was not an invalid or being fifty years or over had been married to him or her for less than three years, shall be entitled to a survivors' pension for a period of one year.

(2) Notwithstanding paragraph (c) of subregulation (1), but subject to paragraph (a) of that subregulation and subregulation (3), a widow or widower entitled to a survivors' pension shall be entitled to such pension as long as the child of the deceased continues to be wholly or mainly maintained by her or him after the death of the deceased.

(3) Where a pension payable to a widow or widower pursuant to subregulation (1)(b) ceases otherwise than because of remarriage or cohabitation, if the survivor is then over the age of fifty years she or he shall be entitled to a survivors' pension for life.

(4) Survivors' pension payable to a widow or widower shall cease on her or his remarriage or cohabitation with a man as her husband or a woman as his wife respectively.

**38. (1) Subject to subregulation (2) where an insured person dies leaving no other survivor with prior entitlement, a dependent parent or, if there is no such parent, a dependent grand-parent shall be paid half of the benefit available for payment; but where more than one surviving dependent parent or grand-parent, as the case may be, of the insured person is entitled to benefit under this regulation, the benefit shall be shared equally between them and where any such beneficiary is entitled**

\* This section inserted by S.R.O. 25/1991 came into operation on the 1st January, 1991 and applies only to benefits payable in respect of the period after that date.

Entitlement of dependent parents and grand-parents to survivors' pensions.  
[29/1989  
25/1991].

to benefit from the death of more than one deceased insured person, only half of the highest benefit available will be paid.

(2) A dependent parent or grand-parent shall be entitled to benefit under this regulation only if he has attained his sixtieth birthday and shall be paid such benefit during his lifetime.

**39.** (1) Survivors' pensions shall be payable in respect of the unmarried children, including adopted children, step-children and illegitimate children of a deceased insured person who at the date of the parent's death were under the age of sixteen years and were living with or were wholly or mainly maintained by the deceased at the time of death.

Entitlement of children to survivors' pensions and duration thereof. [29/1989].

(2) A survivors' pension shall be payable in respect of a child until he attains his sixteenth birthday; except that in the case of invalid children pension shall be payable for the period during which invalidity continues and where the child is attending an educational institution recognised by the Board such pension shall be payable until he attains his eighteenth birthday.

**40.** (1) The rate of survivors' pension payable to the spouse shall be equal to one-half of the maximum pension available for payment to survivors.

Rate of survivors' pensions. [25/1991].

\* (2) The rate of survivors' pension payable in respect of each child shall be equal to one-quarter of the maximum pension available for payment to survivors, except that in respect of any child who is an orphan or who is an invalid the rate of pension payable may be fixed at one-third of the maximum pension so available.

\* (3) The aggregate of pensions payable to the spouse and children shall not exceed the maximum pension available for payment to survivors.

\* (4) Subregulation (2) applies to all pensions regardless of the time of death of the worker.

\* (5) Notwithstanding any Regulation to the contrary, pension payable to a child shall not be less than thirty-five dollars monthly.

(6) Where no spouse is entitled to benefit, the full amount of survivors' pension may be paid in respect of the children of the

\* These provisions inserted by S.R.O. 25/1991 came into operation on the 1st January, 1991 and apply only to benefits payable in respect of the period after that date.

deceased; but the rate of pension payable in respect of each child shall not exceed the rates set out in subregulation (2).

Insufficiency of pension available for distribution to children.

**41.** (1) Where the pension available for distribution in respect of the children of the deceased is insufficient to enable payment to be made in respect of all of the children and a question is raised as to which of the several children should be granted title to such pension or pensions, then the question shall be referred to the Board for decision.

(2) Where after the award of survivors' pensions there are children of the deceased who would be entitled to a pension but for the fact that the total pension had been fully committed, such children shall be entitled to survivors' pensions at any time when the total payments to survivors of the deceased amount to less than the maximum pension available provided that the conditions set out in regulation 39 are satisfied.

Distribution of survivors' grant.

**42.** Survivors' grant shall be distributed on the same basis as provided in regulation 40 for survivors' pensions.

Meaning of "the husband" and "the wife".

**43.** For the purposes of this Part, in relation to survivors' benefit, the expression "the husband" or "the wife", with reference to a person who has been married more than once, refers only to the last husband or wife respectively.

Special treatment in case of survivors' benefit of persons living in certain associations.

**44.** For the purposes of this Part in relation to survivors' benefit where it is a condition of title to that benefit that a person is the widow or widower of an insured person –

- (a) (i) an insured person may, at any time after the appointed day, apply to the Director for registration of the particulars of the beneficiary for survivors' benefit;
- (ii) in the case of an insured man, the beneficiary has to be a woman with whom he lives as her husband;
- (iii) in the case of an insured woman, the beneficiary has to be a man with whom she lives as his wife;
- (iv) notwithstanding the fact that a valid marriage subsists between such insured person and another woman or man, as the case may be, registration under this section of a person as a beneficiary shall automatically exclude all other persons from being beneficiaries and the

reference to 'husband' or 'wife' shall be construed as referring to such registered beneficiary only;

- (v) a registration so made may be cancelled on the request of the insured person;
- (b) where no such registration has been made the Director may treat a single woman or widow who was living with a single man or widower at the time of his death as if she were in law his widow (or a single man or widower who was living with a single woman or widow at the time of her death as if he was in law her widower) provided that the Director is satisfied that in all the circumstances she (or he) ought to be so treated;
- (c) where the question of marriage or remarriage or the date of marriage or remarriage arises in regard to title to benefit, the Director shall in the absence of the subsistence of a lawful marriage decide whether or not the persons concerned should be treated as if he, she, or they were married or had remarried, as the case may be, and if so from what date; and in determining the question the Director shall have regard to paragraphs (a) and (b);
- (d) registration under paragraph (a) or the determination of the Director under paragraph (b) or (c) shall, unless the context otherwise requires, have the effect of extending, as regards title to survivors' benefit, the meaning of the word "marriage" to include the association of a woman with a man as aforesaid, and the words "wife", "husband", "widow", "widower" and "spouse" shall be construed accordingly.

#### INJURY BENEFIT

45. 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, under regulation 49(2), disablement benefit in respect of the relevant accident is not available to the insured person.

Meaning of  
"injury benefit  
period".

46. (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 for the purposes of these Regulations whether the insured person is incapable of work on the day of the relevant accident, any part of that day before the accident happened shall be disregarded.

First Schedule.

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

(4) Where any further period of incapacity resulting from the relevant accident for which benefit is payable occurs within the injury benefit period, the daily rate of benefit so payable shall be the daily rate of benefit which was or would have been appropriate to the first period of incapacity resulting from the relevant accident and the first period and such further period or periods shall, for the purposes of regulation 47(1), be treated as one continuous period of incapacity for work.

First three days of incapacity for work excluded; prescribed manner of claiming.

47. (1) Subject to subregulation (2), an insured person who is eligible for injury benefit shall not be entitled to receive such benefit for the first three days of any continuous period of incapacity for work resulting from the injury but only as from the fourth day of such period.

(2) Subject to subregulations (3) and (4), for the purposes of computing the first three days of any continuous period of incapacity for work mentioned in subregulation (1), public holidays except Sundays shall be included.

(3) Where an insured person had already had an earlier continuous period of incapacity for work exceeding three days for which sickness or injury benefit under the Act has been paid at intervals between the last day of such incapacity for work and the commencement of the further period of incapacity for work is no more than eight weeks, injury benefit is payable from the first day (Sundays being disregarded) of the further period of incapacity for work at a rate calculated in accordance with regulation 46(3).

(4) Where the duration of 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 (Sundays being disregarded) which, treating the earlier period of incapacity as continuous with that of the further period for the purposes of this regulation, is the fourth day of such incapacity for work.

(5) Subject to subregulation (6), injury benefit shall not be paid to an insured person for any day prior to the first date as from which he

has been certified by a registered medical practitioner to have been incapable of work; but the Director may pay benefit from an earlier date, subject to subregulation (1), having regard to the prescribed time for claiming benefit.

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

48. Subject to regulations 46 and 47, injury benefit shall be paid so long as the incapacity for work as a result of the accident continues, but shall not be paid for longer than twenty-six weeks from the date on which the relevant accident occurred

Duration of  
injury benefit.

#### DISABLEMENT BENEFIT

49. (1) Subject to subregulation (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 52 amounts to not less than one per cent; and for the purposes of that regulation there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed would not amount to one per cent.

Entitlement to  
and duration of  
benefit.

(2) Disablement benefit shall not be available to an insured person until after the third day of the period of twenty-six weeks beginning with the day on which the relevant accident occurred nor until after the last day (if any) of that period on which he is incapable of work as a result of the relevant injury.

However, where he makes a claim for disablement benefit in respect of the relevant accident before the end of that period and does not withdraw it before it is finally determined, then if on any day of that period not earlier than the making of the claim he is not incapable of work as aforesaid, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subregulation.



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

- (a) if the period taken into account by the assessment is limited by reference to the claimant's life or is not less than seven years, be a grant equal to three hundred and sixty-five times the amount which bears to the weekly amount of the total disablement benefit the same ratio as the percentage loss of faculty, as assessed, bears to one hundred per cent;
- (b) in any other case, be a grant equal to the number of weeks for which the assessment has been given times the amount which bears to the weekly amount of the total disablement benefit the same ratio as the percentage loss of faculty, as assessed, bears to one hundred per cent.

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

Rate of disablement benefit.  
First Schedule.

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

Increase of account of constant attendance.

**51. (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 payable shall be increased by fifty per cent.

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

(3) Subject to subregulation (4), where a person is awarded disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than one hundred per cent, 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 Increase on account of hospital treatment.
  - (b) is incapable of work as a result of the relevant injury or loss of faculty; Increase on account of incapacity.
- 

but it shall not be so treated for any period more than two hundred and sixty weeks from the date of the relevant accident.

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

**52.** (1) Subject to subregulations (2) to (6), for the purpose of disablement benefit, the extent of disablement shall be assessed by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty in accordance with the following general principles: Assessment of extent of disablement.

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

- (i) would in any case have been subject thereto as a result of a congenital defect or of any 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 claimant other than age, sex and physical or mental condition.

Second  
Schedule.

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

(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 subregulation (2) the medical board may have such regard as may be appropriate to the prescribed degrees of disablement set against the injuries specified in the Second Schedule.

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

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

- (a) a provisional assessment shall be made, taking into account such shorter period only, not being less than thirteen weeks, as seems reasonable having regard to his condition and the possibility aforesaid; and

(b) on the next assessment, the period taken into account shall begin with the end of the period taken into account by the provisional assessment.

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

- (a) such percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with regulation 49 of the claimant's right to disablement benefit; and
- (b) a percentage between thirty and one hundred which is not a multiple of ten shall be treated –
  - (i) if it is a multiple of five, as being the next higher percentage which is a multiple of ten;
  - (ii) if it is not a multiple of five, as being the nearest percentage which is a multiple of ten.

**53. (1)** Where a person suffers two or more successive accidents, Successive accidents. against which he is insured under the Act –

- (a) he shall not for the same period be entitled to receive injury benefit and disablement benefit but shall be entitled to receive the benefit which is payable at the higher rate. However, where the disablement benefit is a disablement grant, the weekly rate of injury benefit shall be reduced during the unexpired portion of the period by reference to which the disablement grant was assessed, by the amount which would have been payable weekly had a pension been payable in lieu of a grant;
- (b) he shall not for the same period be entitled to receive more than one disablement benefit, but in assessing his degree of disablement in connection with the second or subsequent claim to disablement benefit, the total degree of disablement arising from all the relevant injuries and diseases shall be assessed and he shall be entitled to disablement benefit based on that assessment in lieu of any previous assessments and the rate of benefit so payable shall be computed by reference to

First Schedule.

whichever of the rates assessed in accordance with the First Schedule was the higher prior to any of the relevant accidents;

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

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

(ii) the amount of the disablement grant shall be reduced by the amount of the equivalent of the unexpired portion of the grant previously paid.

(2) However, prior to any reduction as in subregulation (1)(c)(i) or (ii), the rate of the disablement pension or the amount of the disablement grant which is payable on the second or subsequent occasion shall be computed by reference to whichever of the amounts assessed in accordance with the First Schedule was the higher prior to any of the relevant accidents.

First Schedule.

### MEDICAL EXPENSES

Prescribed  
medical  
expenses.  
[25/1991].

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

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

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

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

(3) The fees or charges constituting the aforesaid medical expenses shall not be more than would be properly and reasonably charged to the insured person if he was paying them himself.

\* (4) The amount of any such fees and charges which may be refunded under this Part shall be determined by the Board in every case.

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

Payment of  
medical expenses  
during absence  
from Dominica.

\* **56.** (1) Where an insured person suffers personal injury by accident –

Medical expenses  
incurred outside  
Dominica.  
[25/1991].

- (a) in Dominica and incurs medical expenses outside of Dominica, the amount refunded under this Part shall not, subject to subregulation (2), exceed the amount that, in the opinion of the Board, would have been refundable under regulation 54 had the expenses been incurred in Dominica; or
- (b) outside of Dominica, and incurs medical expenses outside of Dominica the amount refunded under this Part shall not, subject to subregulation (2), exceed the amount of the expenses which may be refunded under regulation 54(1)(a) and (c);

but in no case shall the said amounts exceed the limit of insured earnings that is subject to Dominica Social Security contributions.

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

\* These provisions inserted by S.R.O. 25/1991 came into operation on the 1st January, 1991 and apply only to benefits payable in respect of the period after that date.

Power of Board to make direct payment for medical expenses.

**57.** Notwithstanding anything contained in this Part, where the Board considers it desirable to do so, 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 person.

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

(2) Any amount required by the Board to be repaid pursuant to subregulation (1) may be recovered as a debt due to the Board in accordance with section 46 of the Act or by deduction from any other benefit payable by the Board to or in respect of that insured person.

### DEATH BENEFIT

Entitlement to death benefit. [29/1989].

**59.** Subject to this regulation and to regulations 60, 61 and 62, death benefit shall be paid in the case of death due to employment injury to the dependants of the deceased insured person in the following order of priority and for the following periods:

- (a) where the deceased was a man, his widow, if she was wholly or mainly maintained by him at the time of death, for life;
- (b) where the deceased was a woman her widower, if at the date of her 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,
 and any such benefit shall be payable so long as he continues to satisfy the aforesaid conditions as to invalidity and means;
- (c) unmarried children, including adopted children, step-children and illegitimate children of the deceased who, at the

date of the death of the deceased were under the age of sixteen years and were living with or were wholly or mainly maintained by the deceased at the time of death; and any such benefit shall be payable in respect of a child until he attains his sixteenth birthday; except that in the case of invalid children benefit shall be payable for the period during which invalidity continues; and where the child is attending an educational institution recognised by the Board such benefit shall be payable until he attains his eighteenth birthday;

- (d) any other person, including a widow or widower or children, not qualifying under paragraphs(a), (b) and (c) adjudged by the Director to have been wholly or in part dependent upon the earnings of the deceased at the time of his death, or would but for the incapacity or disablement due to the relevant accident have been so dependent; and a person shall not be deemed in part dependent upon the earnings of the deceased person unless such person was dependent partially on financial support from the deceased for the provisions of the ordinary necessities of life suitable for a person of his position; and any such benefits shall be payable for a period of fifty-two weeks commencing from the date of death of the deceased;
- (e) where the deceased leaves no other survivor with prior entitlement, a dependent parent above the age of sixty or if there is no such parent, a dependent grand-parent above the aforementioned age, for life:

Provided that where more than one surviving dependent parent or grand-parent, as the case may be, of the insured person is entitled to benefit under this regulation, the benefit shall be shared equally between them and provided further that where any such beneficiary is entitled to benefit from the death of more than one deceased insured person, only the highest benefit available will be paid.

60. For the purposes of this Part in relation to death benefit, the expression "widow" or "widower", in relation to a person who has been married more than once, refers only to the last husband or wife, as the case may be, except where a beneficiary has been registered under section 33.

Meaning of  
"widow" and  
"widower".



Special treatment  
in case of death  
of persons living  
in certain  
associations.

**61.** For the purposes of this Part in relation to death benefit, where it is a condition of title to that benefit that a person is the widow or widower of an insured person –

- (a)
  - (i) an insured person may at any time after the appointed day, apply to the Director for registration of the particulars of the beneficiary for death benefit;
  - (ii) in the case of an insured man, the beneficiary has to be a woman with whom he lives as her husband;
  - (iii) in the case of an insured woman, the beneficiary has to be a man with whom she lives as his wife;
  - (iv) notwithstanding the fact that a valid marriage subsists between such insured person and another woman or man, as the case may be, registration under this section of a person as a beneficiary shall automatically exclude all other persons from being beneficiaries and the reference to “husband” or “wife” shall be construed as referring to such registered beneficiary only;
  - (v) a registration so made may be cancelled on the request of the insured person;
- (b) where no such registration has been made the Director may treat a single woman or widow who was living with a single man or widower at the time of his death as if she were in law his widow (or a single man or widower who was living with a single woman or widow at the time of her death as if he was in law her widower):

Provided that the Director is satisfied that in all the circumstances she (or he) ought to be so treated;

- (c) where the question of marriage or remarriage or the date of marriage or remarriage arises in regard to title to benefit the Director shall in the absence of the subsistence of a lawful marriage decide whether or not the persons concerned should be treated as if he, she, or they were married or had remarried, as the case may be, and if so from what date; and in determining the question the Director shall have regard to the provisions of paragraphs (a) and (b);
- (d) registration under paragraph (a) or the determination of the Director under paragraph (b) or (c) shall, unless the context otherwise requires, have the effect of extending, as regards

title to death benefit, the meaning of the word "marriage" to include the association of a woman with a man as aforesaid and the words "wife", "husband", "widow", "widower" and "spouse" shall be construed accordingly.

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

Determination of  
weekly rate of  
death benefit.  
First Schedule.  
[22/1989].

- (a) one-half of the benefit available for payment, to the person qualified under regulation 59(a), (b), or (e);
- (b) one-sixth of the benefit available for payment, to each child qualified under regulation 59(c) except that in respect of any child who is an orphan or who is an invalid the rate of benefit payable may be fixed at one-third of the maximum benefit so available;
- (c) in the case of any other dependent qualified under regulation 59(d), one-sixth of the benefit available for payment except that in respect of a person who was wholly dependent upon the deceased at the date of death the benefit payable may be fixed at up to one-half of the maximum benefit so available.

(2) Nothing in this Part shall prevent a person who was not eligible for a death benefit because of the application of regulation 59 (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:

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

(3) Subject to subregulations (5) and (6) death benefits payable—

- (a) to or in respect of widows and widowers under regulation 59 (a) and (b) shall cease on remarriage or cohabitation, as the case may be;
- (b) to or in respect of children under regulation 59 (c) shall cease on marriage or cohabitation, as the case may be;

(c) to or in respect of dependants under regulation 59(d) shall cease if the dependant concerned marries, remarries or cohabits, as the case may be.

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

(5) In the case of a widow whose benefit was payable under regulation 59(a) or a widower whose benefit was payable under regulation 59(b), a gratuity shall be payable on the termination of any pension in consequence of her or his remarriage of an amount equal to fifty-two times the weekly rate of pension to which she or he was then entitled.

(6) Where pension available for distribution in respect of the children of the deceased is insufficient to enable payment to be made in respect of all of the children and a question is raised as to which of the several children should be granted title to such pension or pensions, then the question shall be referred to the Board for decision.

### MISCELLANEOUS PROVISIONS

Entitlement to more than one benefit.

63. (1) Notwithstanding that a person is entitled to two or more benefits under the Act at the same time, then, except as provided in regulation 53 (which relates to successive accidents) 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.

(2) (a) If the last mentioned benefit ceases to be payable then nothing shall prevent the award or re-instatement of another benefit to which such person is entitled under the Act.

(b) A person who has already received an invalidity grant or grants shall not be disentitled to a further invalidity grant or to an age grant based on contributions actually paid in respect of or credited to him and not already taken into account for the said invalidity grant or grants received.

(c) Survivor's grant or grants may be paid to or in respect of those otherwise entitled notwithstanding that the relevant deceased

insured person had in his lifetime received an invalidity grant or invalidity grants, but the survivor's grant or grants shall be based only on contributions actually paid in respect of or credited to him and not already taken into account for the said invalidity grant or grants received.

(d) Nothing in this regulation shall preclude the full duplication of –

- (i) sickness benefit or maternity benefit with survivor's benefit;
- (ii) injury benefit with age benefit or death benefit;
- (iii) disablement benefit with sickness benefit, maternity benefit, survivor's benefit, death benefit or age benefit;
- (iv) death benefit with sickness benefit, maternity benefit, injury benefit, invalidity benefit, age benefit or disablement benefit.

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

(f) Where an insured person is eligible for both disablement benefit and invalidity benefit then he shall be paid the benefit which is the more favourable to him.

(g) There shall be no duplication of sickness benefit and an increase of disablement benefit on account of hospital treatment under regulation 51(3)(a) or on account of incapacity under regulation 51(3)(b).

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

Refund of  
benefit improp-  
erly paid.

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

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

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

Credited  
contributions.

- (a) sickness benefit;
- (b) maternity benefit;
- (c) injury benefit;
- (d) disablement benefit increased on account of hospital treatment under regulation 51(3)(a);
- (e) disablement benefit increased on account of incapacity under regulation 51(3)(b);
- (f) disablement benefit assessed at one hundred per cent,

a contribution shall be credited to that person without actual payment thereof; but no contribution shall be credited to a person in respect of disablement assessed at hundred per cent if that person is not capable of work as a result of the relevant loss of faculty.

(2) Subregulation (1) shall be applied in the case of an insured person who but for the application of regulations 4(1) and 69(1) would have been entitled to receive sickness benefit.

(3) A credited contribution shall, subject to these Regulations, be valid for sickness, injury, disablement, maternity, invalidity and age benefit and shall be at the level of weekly insurable earnings corresponding to or most closely corresponding to that on the basis of which the benefit had been paid; but where benefit was payable at different rates during the contribution week the credited contribution for that week shall be at the level of weekly insurable earnings corresponding to or most closely corresponding to the higher or highest level of weekly insurable earnings on the basis of which benefit was so payable.

Special provisions relating to persons absent abroad.

**66.** Except as hereinafter provided, a person shall be disqualified for receiving any benefit for any period during which that person is absent from Dominica save that --

- (a) a person shall not be disqualified for receiving sickness or maternity benefit by reason of being temporarily absent from Dominica for the specific purpose of being treated for incapacity which commenced before he left Dominica, during such period as the Director may allow having regard to the particular circumstances of the case;
- (b) a person shall not be disqualified for receiving age benefit, survivor's benefit or injury, disablement or death benefit by reason of being absent from Dominica;

- (c) a person shall not be disqualified for receiving invalidity benefit by reason of being absent from Dominica for such period as the Director may allow having regard to the particular circumstances of the case, if entitlement to the invalidity benefit was established before the person left Dominica.

**67.** Benefit for which a person is eligible by virtue of regulation 66 shall be paid in Dominica to such representative acting for and on behalf of the person concerned as may be approved by the Director.

Payment of benefit for which person is eligible under reg. 66.

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

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

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

**69.** (1) Where an insured person is or has been entitled under the Workmen's Compensation Ordinance to a half monthly payment (hereafter in this regulation referred to as "the compensation payment") in respect of temporary disablement, whether total or partial, resulting from an employment injury the sickness benefit which, but for the provision of this regulation, would be payable to the insured person in respect of incapacity for work resulting from that injury shall be adjusted as follows:

Special provisions relating to payments under Workmen's Compensation Ordinance. Cap. 122. (1961 Ed.).

- (a) for every day in respect of which the insured person is or was entitled to the compensation during the period of one hundred and fifty-six days beginning with the first day of such entitlement, the sickness benefit shall be reduced or extinguished, as the case may be, by the deduction therefrom of the amount of the compensation payment;
- (b) for every day of such entitlement after the expiration of the said period of one hundred and fifty-six days, the sickness benefit shall be reduced by the deduction therefrom of the amount of the compensation payment,

provided that the sickness benefit shall not thereby be reduced by more than one-half.

(2) For the purpose of this regulation, the amount of the compensation payment for any day shall be one fourteenth of the half monthly rate of the compensation payment.

(3) Where under section 7(1)(a) of the Workmen's Compensation Ordinance burial expenses are paid in respect of a deceased person, the amount of the funeral grant shall be reduced by the amount so payable on account of burial expenses.

### TRANSITIONAL PROVISIONS

Regulations to be modified after appointed day.

**70.** If a person insured under section 19(1)(a) of the Act is in insurable employment on or after the appointed day, the provisions of these Regulations shall be modified in his case to the following extent:

- (a) where it is a condition of eligibility to benefit that he should have been insured or employed for not less than a specified period, the period for which contributions were being paid by him or on his behalf to the Dominica National Provident Fund immediately preceding the appointed day shall also count for satisfying the eligibility condition;
- (b) where for eligibility to benefit a certain number of contributions are required to have been paid during a period, such period may include a period preceding the appointed day;
- (c) the Provident Fund contributions paid in the period preceding the appointed day referred to in paragraph (b) above, shall count as under:

For eligibility to invalidity, survivor's or age benefit, a person will be given credit of as many weekly contributions as the number arrived at by dividing the amount to his credit in the Dominica National Provident Fund on the day preceding the appointed day by an amount equal to his average contribution rate in the first thirteen weeks of insurable employment after the appointed day, fraction below one half being ignored and one half and above being rounded up to the next higher number:

Provided that where an insured person attains the age of sixty years in less than thirteen weeks after the appointed

day, the denominator for the division mentioned in the paragraph above shall be the average of all the contribution weeks from the appointed day to the attainment of age sixty instead of the average of the first thirteen weeks as mentioned in paragraph (a) above:

Provided further that for the purposes of the first proviso above the weekly wages after the appointed day shall be assumed to be the same as before the appointed day if in any case they are lower than the wages preceding the appointed day;

- (d) where the rate of any benefit is expressed in terms of the average insurable earnings over a period, such period may include a period preceding the appointed day;
- (e) for the period preceding the appointed day the insurable earnings shall be deemed to be ten times the National Provident Fund contribution paid during the said period and a monthly contribution shall be deemed to be equal to the contributions for four weeks and for all calculations in this context a year shall count as twelve months or fifty-two weeks.

**71.** For purposes of section 59(2) of the Act, interest shall be paid at three per cent per annum compoundable annually or at such other rate as the Minister may direct.

Payment of  
interest.

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## **FIRST SCHEDULE**

Regulations  
46(3), 50, 53 and  
62.

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

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

(3) For the purposes of subparagraphs (1) and (2) the expression "the average weekly insurable earnings" means –

- (a) where the insured person has been in the service of an employer throughout the continuous calendar period



of thirteen completed contribution weeks immediately preceding the contribution week in which the accident happened, the sum of the weekly insurable earnings on which contributions were based (including any contributions credited in accordance with regulation 65 of these Regulations) over that period, divided by thirteen;

- (b) where the insured person has been in the service of an employer throughout a continuous calendar period of less than thirteen complete contribution weeks immediately preceding the contribution week in which the accident happened, the sum of the weekly insurable earnings on which contributions were based (including any contributions credited in accordance with regulation 65 of these Regulations) over that period of complete contribution weeks divided by the number of such weeks;

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

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

2. (1) The weekly rate of death benefit available for payment to survivors shall be sixty per cent of the average weekly insurable earnings of the deceased.

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

## SECOND SCHEDULE

Regulations 52 (2)  
and (3).

### PRESCRIBED DEGREES OF DISABLEMENT

<i>Description of injury</i>	<i>Degree of Disablement per cent</i>
1. Loss of both hands or amputation at higher sites	100
2. Loss of hand and foot	100
3. Double amputation through leg or thigh or amputation through leg or thigh on one side and loss of other foot	100
4. Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5. Very severe facial disfigurement	100
6. Absolute deafness	100
7. Forequarter or hindquarter amputation Amputation cases - upper limbs (either arm)	100
8. Amputation through shoulder joint	90
9. Loss of arm between elbow and shoulder	80
10. Loss of arm at elbow	70
11. Loss of arm between wrist and elbow	70
12. Loss of hand or of thumb and four fingers of one hand	60
13. Loss of thumb	30
14. Loss of thumb and its metacarpal bone	40
15. Loss of four fingers of one hand	50
16. Loss of three fingers on one hand	30
17. Loss of two fingers on one hand	20
18. Loss of terminal phalanx of thumb Amputation cases - lower limbs	20
19. Amputation of both feet resulting in end bearing stumps	90
20. Amputation through both feet proximal to the metatarso-phalangeal joint	80
21. Loss of all toes of both feet through the metatarso-phalangeal joint	40

<i>Description of Injury</i>	<i>Degree of Disablement per cent</i>
22. Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
23. Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
24. Amputation at hip	90
25. Amputation at or above knee but below hip	80
26. Amputation below knee	60
27. Amputation of one foot resulting in and bearing stump	40
28. Amputation through one foot proximal to the meta-tarso-phalangeal joint	30
OTHER INJURIES	
29. Loss of all toes of one foot through the metatarso-phalangeal joint	20
30. Loss of one eye, without complications, the other being normal	40
31. Loss of vision of one eye, without complications or disfigurement, the other being normal	30
LOSS OF	
A. FINGERS OF RIGHT OR LEFT HAND	
INDEX FINGER	
32. Whole	14
33. Two phalanges	11
34. One phalanx	9
35. Whole	12
36. Two phalanges	9
37. One phalanx	7
38. Guillotine amputation to tip without loss of bone	4
RING OR LITTLE FINGER	
39. Whole	7
40. Two phalanges	6
41. One phalanx	5
42. Guillotine amputation of tip without loss of bone	2

<i>Description of Injury</i>	<i>Degree of Disablement per cent</i>
<b>TOES OF RIGHT OR LEFT FOOT GREAT TOE</b>	
43. Through metatarso-phalangeal joint	14
44. Part, with some loss of bone	3
45. Through metatarso-phalangeal joint	3
46. Part, with some loss of bone	1
<b>TWO TOES OF ONE FOOT, EXCLUDING GREAT TOE</b>	
47. Through metatarso-phalangeal joint	5
48. Part, with some loss of bone	2
<b>THREE TOES OF ONE FOOT, EXCLUDING GREAT TOE</b>	
49. Through metatarso-phalangeal joint	6
50. Part, with some loss of bone	3
<b>FOUR TOES OF ONE FOOT, EXCLUDING GREAT TOE</b>	
51. Through metatarso-phalangeal joint	9
52. Part, with some loss of bone	3