

Social Security (Employment Injuries Insurance)

1952-10

EMPLOYMENT INJURIES (BENEFITS) REGULATIONS

This version is out of date

**Subsidiary
1952.06.26-1**

Regulations made under s.50.

EMPLOYMENT INJURIES (BENEFITS) REGULATIONS

(1952.06.26-1)

7.7.1952

| Amending enactments | Relevant current provisions | Commencement date |
|---------------------|-----------------------------|-------------------|
| Regs. of 27.4.1954 | r. 2(1), Sch. 1 | |
| 14.10.1954 | rr. 2(3)-(4), 4 | |
| 4.10.1960 | r. 5 | |
| 20.6.1961 | r. 4 | |
| 19.5.1966 | rr. 4, 8 | |
| LN. 1973/057 | rr. 4, 8 | |
| 1973/114 | r. 4 | |
| 1974/106 | rr. 4, 8 | |
| 1975/138 | rr. 4, 8 | |
| 1976/103 | rr. 4, 8 | |
| 1977/094 | – | |
| 1977/137 | rr. 4, 8 | |
| 1978/107 | rr. 4, 8 | |
| 1979/098 | rr. 4, 8 | |
| 1980/110 | rr. 4, 8 | |
| 1981/115 | rr. 4, 8 | |
| 1982/089 | rr. 4, 8, Sch. 2 | |
| 1983/098 | rr. 4, 8, Sch. 2 | |
| 1986/125 | rr. 4, 8, Sch. 2 | 1.1.1987 |
| 1987/170 | rr. 4, 8, Sch. 2 | 1.1.1988 |
| 1988/120 | rr. 4, 8, Sch. 2 | 1.1.1989 |

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ARRANGEMENT OF REGULATIONS.

Regulation.

1. Title.
2. Assessment of disablement.
3. Amount of disablement gratuities.
4. Increase of disablement pension where constant attendance is needed.
5. Absence from Gibraltar.
6. Adjustment of successive benefit for accidents where a disablement gratuity is payable.
7. Provisions as to maintenance for the purposes of increases of benefit in respect of dependants.
8. Provisions as to maintenance for the purposes of death benefit.

SCHEDULE 1.

Prescribed degree of disablement.

SCHEDULE 2.

Maximum weekly rates of injury benefit payable for successive accidents.

Title.

1. These Regulations may be cited as the Employment Injuries (Benefits) Regulations.

Assessment of disablement.

2. (1) Section 15(2) of the Act shall have effect subject to the provisions of this regulation.

(2) Where as a result of the relevant accident the claimant has suffered an injury specified in the first column of Schedule I, then unless the case is one to which the next following sub-regulation applies the loss of faculty suffered by the claimant as a result of that injury shall be treated for the purpose of section 15 of the Act as resulting in the degree of disablement set against such injury in the second column of Schedule 1:

Provided that, where a person has suffered an injury specified in Schedule I which includes any other injury so specified this paragraph shall only apply to the first mentioned injury.

(3) Where as a result of the relevant accident the claimant has suffered an injury specified in Schedule I but-

- (a) as a result of that injury the claimant may be expected, having regard to his physical and mental condition at the date of the assessment in respect thereof, to be subject to greater disabilities than would normally be incurred as a result of such an injury; or
- (b) the part of the body by which the injury was sustained would not, apart from that injury, have been normal at the date of the assessment,

the loss of faculty shall be assessed by reference to the degree of disablement set against the injury subject to such adjustment as may seem reasonable to the Director in the circumstances of the case.

(4) For the purpose of assessing the extent of the disablement resulting from any injury which is not specified in Schedule I, the Director may have such regard as may be appropriate to the provisions of sub-regulation (2) or (3).

(5) Where as a result of the relevant accident the claimant has suffered an injury to an organ of his body which in a person whose physical condition is normal would be one of two similar organs, the functions of which would be interchangeable or complementary, any disability in respect of the other organ to which the claimant would in any case have been subject by reason of a congenital defect, or an injury or disease contracted before the relevant accident and not attributable to any accident against which he was insured under the Act, shall nevertheless be treated as having been incurred as a result of the relevant loss of faculty.

Amount of disablement gratuities.

3. (1) If in any case the period taken into account by an assessment of disablement is less than seven years, the amount of the gratuity payable shall be calculated in accordance with the following provisions of this regulation.

(2) In any case to which the provisions of section 15(6) of the Act apply, the amount of the gratuity shall bear the same proportion to the amount specified in the second and fourth columns of Schedule 3 to the Act as the period taken into account by the assessment bears to a period of seven years.

(3) In any case to which the provisions of section 15(7)(b) of the Act apply, the amount of the gratuity shall bear the same proportion to the amount specified in the second and fourth columns of Schedule 5 to the Act as the period taken into account by the assessment bears to a period of seven years.

(4) For the purpose of this regulation, any amount less than five pence shall be treated as five pence.

Increase of disablement pension where constant attendance is needed.

4. The amount by which the weekly rate of a disablement pension may be increased under section 16 of the Act where the beneficiary requires constant attendance shall-

- (a) where the beneficiary is to a substantial extent dependent on such attendance for the necessities of life (not being a case to which paragraph (b) relates) and is likely to remain so dependent for a prolonged period, be £19.10 unless the attendance required is part time only, in which case the amount shall be such lesser sum as may appear to the Director to be reasonable in the circumstances;

- (b) where the beneficiary is so severely disabled as to be entirely or almost entirely dependent on such attendance for the necessities of life, and is likely to remain so dependent for a prolonged period, and the attendance so required is whole time, be £38.25.

Absence from Gibraltar.

5. (1) The provisions of section 23(2)(a) of the Act shall have effect subject to the following provisions of this regulation.

(2) A beneficiary shall not be disqualified from payment of injury benefit by reason of his absence from Gibraltar or the Campo district.

(3) A beneficiary shall not be disqualified from payment of disablement benefit or death benefit by reason of his absence from Gibraltar or the Campo district.

Adjustment of successive benefit for accidents where a disablement gratuity is payable.

6. (1) Where a person is entitled as a result of any accident to a disablement gratuity based on an assessment of not more than sixty-five per cent, he shall not at any time during the period taken into account by the assessment (or the period of seven years whichever is the less) be entitled, in respect of any other accident, to—

- (a) injury benefit or a disablement pension at a weekly rate exceeding the weekly rate of disablement pension which would be payable in accordance with the provisions of Schedule 4 to the Act in respect of an assessment equal to the difference between one hundred per cent and the percentage of the assessment in respect of which the gratuity is payable to him ;
or
- (b) a disablement gratuity of an amount exceeding the amount of a gratuity which would be payable in accordance with the provisions of Schedule 5 to the Act and regulation 3 in respect of an assessment equal to the difference between one hundred per cent and the percentage of the assessment in respect of which the first gratuity is payable to him.

(2) Where a person is entitled as a result of any accident to a disablement gratuity based on an assessment of more than sixty-five per cent, he shall not at any time during the period taken into account by the

assessment (or the period of seven years, whichever is the less) be entitled, in respect of any other accident, to-

- (a) injury benefit at a weekly rate exceeding the weekly rate set out in Schedule 2 appropriate to an assessment equal to the difference between one hundred per cent and the percentage of the assessment in respect of which the gratuity is payable to him ; or
- (b) a disablement gratuity of an amount exceeding the amount of a gratuity which would be payable in accordance with the provisions of Schedule 3 to the Act and regulation 3 in respect of an assessment equal to the difference between one hundred per cent and the percentage of the assessment in respect of which the first gratuity is payable to him.

(3) Where a person is entitled as a result of any accident to injury benefit or to a disablement pension based on an assessment of one hundred per cent he shall not be entitled to receive any disablement gratuity in respect of any other accident.

(4) Where a person is entitled as a result of any accident to a disablement pension based on an assessment of less than one hundred per cent, he shall not be entitled, in respect of any other accident, to a disablement gratuity, but his disablement pension shall be replaced by one of a higher weekly rate appropriate to the aggregate of the two assessments :

Provided that the weekly rate of any pension shall not in any case exceed that appropriate to an assessment of one hundred per cent.

- (5) For the purposes of this regulation-
 - (a) if the difference between, or sum of, any two assessments is not a multiple of five, it shall be treated for the purposes of payment of injury benefit or disablement pension as being the next lower percent which is a multiple of five ;
 - (b) the extent by which any assessment is increased by virtue of the provisions of section 17 of the Act shall be disregarded ; and
 - (c) any increases in the weekly rate of injury benefit or disablement pension by virtue of the provisions of sections 16 and 18 of the Act shall be disregarded:

Provided that nothing in this regulation shall be construed as conferring a right to more than one of each of those increases.

(6) The amount of injury benefit payable for any day of incapacity shall be one-seventh of the weekly rate.

Provisions as to maintenance for the purposes of increases of benefit in respect of dependants.

7. For the purposes of section 18 of the Act, a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary-

- (a) when entitled to benefit to which section 18 applies, contributes towards the maintenance of that person an amount not less than the amount received in respect of that person; and
- (b) when in employment before the date of the relevant accident (except in a case where the dependency did not arise until after that date), contributed more than one half of the actual cost of maintenance of that person.

Provisions as to maintenance for the purposes of death benefit.

8. For the purposes of any provisions of the Act relating to death benefit, a deceased person shall not be deemed to have been, at his death or for any period before his death,-

- (a) wholly or mainly maintaining another person unless he normally contributed more than one half of the actual cost of that other person's maintenance ; or
- (b) to a substantial extent maintaining another person unless he normally contributed not less than an average weekly amount of £25.10 towards the cost of that other person's maintenance.

SCHEDULE 1

Regulation 2(2)

PRESCRIBED DEGREE OF DISABLEMENT

| <i>Description of Injury</i> | <i>Degree of disable- ment per cent</i> |
|---|---|
| 1. Loss of both hands or amputation at higher sites | 100 |
| 2. Loss of hand and a 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 |
| <i>Amputation Cases-Upper Limbs (either arm).</i> | |
| 7. Amputation through shoulder joint. | 90 |
| 8. Amputation below shoulder with stump less than 8 inches from tip of acromion (i.e. the top outer end of the shoulder blade). | 80 |
| 9. Amputation from 8 inches from tip of acromion to less than 4½ inches below tip of olecranon (i.e. the tip of the elbow) | 70 |
| 10. Loss of a hand or of the thumb and four fingers of one hand or amputation from 4½ inches below tip of olecranon | 60 |
| 11. Loss of thumb | 30 |
| 12. Loss of thumb and its metacarpal bone (i.e, the bone joining it to the wrist) | 40 |
| 13. Loss of four fingers of one hand | 50 |
| 14. Loss of three fingers of one hand | 30 |
| 15. Loss of two fingers of one hand | 20 |
| 16. Loss of terminal phalanx of thumb (i.e. the small bone at the top of the thumb) | 20 |

Amputation Cases-Lower Limbs.

| | |
|---|----|
| 17. Amputation of both feet resulting in end-bearing stumps | 90 |
| 18. Amputation through both feet proximal to the | 80 |

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| | metatarsophalangeal joint (i.e. behind the joint of the toes with the body of the foot) | |
| 19. | Loss of all toes of both feet through the metatarsophalangeal joint (i.e. at the joint of the toes with the body of the foot) | 40 |
| 20. | Loss of all toes of both feet proximal to the proximal interphalangeal joint (i.e. immediately in front of the joint of the toes with the body of the foot) | 30 |
| 21. | Loss of all toes of both feet distal to the proximal interphalangeal joint (i.e. immediately in front of the middle joints of the toes) | 20 |
| 22. | Amputation at hip | 90 |
| 23. | Amputation below hip with stump not exceeding 5 inches in length measured from tip of great trochanter (i.e. the upper end of the thigh bone) | 80 |
| 24. | Amputation below hip with stump exceeding 5 inches in length measured from tip of great trochanter, but not beyond middle thigh | 70 |
| 25. | Amputation below middle thigh to 3½ inches below knee | 60 |
| 26. | Amputation below knee with stump exceeding 3½ inches but not exceeding 5 inches | 50 |
| 27. | Amputation below knee with stump exceeding 5 inches | 40 |
| 28. | Amputation of one foot resulting in end-bearing stump | 30 |
| 29. | Amputation through one foot proximal to the metatarsophalangeal joint (See 18) | 30 |
| 30. | Loss of all toes of one foot through the metatarsophalangeal joint (See 19) | 20 |

Other injuries

| | | |
|-----|--|----|
| 31. | Loss of one eye, without complications, the other being normal | 40 |
| 32. | Loss of vision of one eye, without complications or disfigurement of eyeball, the other being normal | 30 |

A -Fingers of right or left hand Index finger (i.e. first finger) :

| | | |
|-----|---|----|
| 33. | Whole | 14 |
| 34. | Two phalanges | 11 |
| 35. | One phalanx | 9 |
| 36. | Guillotine amputation of tip without loss of bone | 5 |

Middle finger:

| | | |
|-----|-------|----|
| 37. | Whole | 12 |
|-----|-------|----|

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| | | |
|-----|---|---|
| 38. | Two phalanges | 9 |
| 39. | One phalanx | 7 |
| 40. | Guillotine amputation of tip without loss of bone | 4 |

Ring or little finger:

| | | |
|-----|---|---|
| 41. | Whole | 7 |
| 42. | Two phalanges | 6 |
| 43. | One phalanx | 5 |
| 44. | Guillotine amputation of tip without loss of bone | 2 |

B –Toes of right or left foot Great toe:

| | | |
|-----|--|----|
| 45. | Through metatarsophalangeal joint (See 19) | 14 |
| 46. | Part, with some loss of bone | 3 |

Any other toe:

| | | |
|-----|--|---|
| 47. | Through metatarsophalangeal joint (See 19) | 3 |
| 48. | Part, with some loss of bone. | 1 |

Two toes of one foot, excluding great toe:

| | | |
|-----|--|---|
| 49. | Through metatarsophalangeal joint (See 19) | 5 |
| 50. | Part, with some loss of bone | 2 |

Three toes of one foot, excluding great toe:

| | | |
|-----|--|---|
| 51. | Through metatarsophalangeal joint (See 19) | 6 |
| 52. | Part, with some loss of bone | 3 |

Four toes of one foot, excluding great toe:

| | | |
|-----|--|---|
| 53. | Through metatarsophalangeal joint (See 19) | 9 |
| 54. | Part, with some loss of bone | 3 |

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SCHEDULE 2

Maximum Weekly Rates of Injury Benefit Payable for Successive Accidents.

Regulations 6(2)

| 1. | 2. | 3. |
|--|---|--|
| Degree of Disablement per centum | Persons who have attained the age of 18. £ | Persons who have attained the age of 15 but are under 18. £ |
| 30 | 13.00 | 10.30 |
| 25 | 10.90 | 8.40 |
| 20 | 8.70 | 6.70 |
| 15 | 6.60 | 5.00 |
| 10 | 4.80 | 3.40 |
| 5 | 2.50 | 1.70 |