

1955-15 Social Security (Non-Contributory Benefits and Unemployment Insurance)

Subsidiary Legislation made under s.16.

Non-Contributory Benefits Regulations

1955.08.04-3

		<i>Commencement</i>	3.10.1955
Amending enactments	Relevant current provisions	Commencement date	
Regs. of 21.11.1961	rr. 5, 8(2)-(3)		
25.6.1970	r. 12		
LN. 1974/108	r. 6		
1978/002	Sch. 2		
2001/031	Sch. 1		19.4.2001

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Title.

1. These regulations may be cited as the Non-Contributory Benefits Regulations.

Interpretation.

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

“determining authority” means the Director, Supreme Court or Board as the case may require ;

“Her Majesty's dominions” includes British protectorates and protected states.

Computation of earnings.

- 3.(1) For the purposes of section 2(6) of the Act (which subsection empowers the Director to prescribe the basis on which the amount of a person's earnings for any period shall be calculated or estimated for the purposes of the Act) the following provisions shall apply:—

- (a) the earnings to be taken into account shall be limited to the net remuneration or profit derived by the person from any occupation and, in particular, in so far as the earnings consist of salary or wages, no account shall be taken of-
 - (i) any sums the deduction of which from salary or wages is authorized by statute ;
 - (ii) the reasonable expenses, if any, incurred by the person in connection with the employment;
- (b) where the earnings of a person for any week are, by reason of the circumstances of the occupation in which he is engaged, not immediately ascertainable, the earnings for that week shall be calculated or estimated in such manner and on such basis as may be decided by the determining authority to be appropriate, having regard to all the circumstances of the case ;
- (c) where under the provisions of the Act the rate of a retirement pension for any week is to be determined by reference to the earnings of a person in the preceding week, the word “week” shall mean the period of seven days preceding the day of the week prescribed for the payment of the pension.

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(2) For the purposes of section II of the Act (which section provides for an increase of unemployment benefit or retirement pension in respect of adult dependants) the weekly earnings of the dependant shall, subject to the provisions of sub-regulation (1), be ascertained in the following manner—

- (a) in the case of a retirement pension, if there are earnings by the dependant in the period of seven days immediately preceding the day in the week prescribed for the payment of the pension, by reference to those earnings;
- (b) in the case of unemployment benefit—
 - (i) where the dependant is employed in one employment only in respect of which she receives a regular weekly wage of a fixed amount, by reference to that wage ; or
 - (ii) where the dependant is not so employed or does not receive a regular weekly wage of a fixed amount, and a claim for the increase is made in respect of a period of seven days (including the Sunday), by reference to her earnings in that period;
- (c) in any case not covered by either of the foregoing sub- paragraphs, in such manner as the determining authority may decide to be appropriate, having regard to all the circumstances of the case.

Provisions as to maintenance.

4.(1) For the purposes of any provision of the Act relating to the maintenance of a child, the following conditions shall apply—

- (a) a person shall be treated as maintaining a child—
 - (i) if that person is the only person who contributes to the cost of providing for the child, or if that person contributes to such cost an amount greater than any other one person contributes thereto;
 - (ii) if two or more persons of whom that person is one contribute to such cost an equal amount that is greater than any one other person contributes thereto, and the Director in his discretion decides that, as between them, that person is to be preferred ;

and not otherwise;

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- (b) for the purposes of this paragraph, a man and his wife living together shall be treated as one person and amounts contributed by them respectively shall be aggregated accordingly;
- (c) for the purposes of this paragraph—
 - (i) the expression “providing for” a child means making available for the child food, clothing, lodging, education and all other things reasonably required for the child's benefit ;
 - (ii) the making available in kind of anything used for providing for a child shall be treated as a contribution to the cost of providing for the child of an amount equal to the value thereof;
 - (iii) money paid or a thing made available in kind shall be treated as contributed by any person so far, and so far only, as it is paid or made available at that person's own expense.

(2) For the purpose of any provision of the Act relating to the maintenance of any person who is not a child, a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

- (a) when unemployed or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of the increase of benefit received in respect of that person ; and
- (b) when in employment or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than one half the actual cost of maintenance of that person.

Absence from Gibraltar.

5.(1) *Revoked.*

(2) A person shall not be disqualified from receiving a retirement pension, by reason of being absent from Gibraltar or the Campo district—

- (a) if he is in any other part of Her Majesty's dominions; or
- (b) otherwise, during the first six months of any temporary absence from Gibraltar.

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Imprisonment, etc.

6.(1) A person shall not, by reason of undergoing a period of imprisonment or detention in legal custody be disqualified—

- (a) for receiving retirement pension in respect of a child or adult dependant;
- (b) for receiving retirement pension (other than an increase of such benefit in respect of a child or adult dependant) if, being charged with a criminal offence, either such charge against him is withdrawn, or he is discharged by the magistrate or is acquitted.

(2) The payment to any person of any benefit—

- (a) which is excepted from disqualification by virtue of sub- paragraph (1); or
- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody,

shall be suspended while that person is undergoing imprisonment or detention in legal custody:

Provided that any retirement pension in respect of a child or adult dependant, and any benefit to which paragraph (b) applies may nevertheless be paid during any such period to any person appointed for the purpose by the Director to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Director and the Consolidated Fund for any sum so paid.

Disqualifications to be disregarded.

7. Where any person would be entitled to benefit under the Act but for the operation of any provision of the Act disqualifying him for the receipt of that benefit, he shall be treated as if entitled to that benefit for the purpose of any rights or obligations under the Act (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit.

Modifications of Social Security (Insurance) Act.

8.(1) For the purposes of section 13 of the Act (which section provides for the application, subject to such modifications as may be prescribed, of the provisions of the Social Security

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(Insurance) Act, specified in that section) such modifications shall be as prescribed in this regulation.

(2) *Revoked.*

(3) *Revoked.*

(4) In section 24(1)(c) of the Social Security (Insurance) Act, the words “and for the payment to the Consolidated Fund out of the Fund of an amount equal to the reduction” shall be omitted.

(5) Except to the extent indicated in the following provisions of these regulations, regulations made under the Social Security (Insurance) Act, shall not be applicable to the Act.

Claims and payments.

9.(1) The provisions of the Social Insurance (Claims and Payments) Regulations, shall apply to claims and payments under the Act subject to the modifications contained in Schedule 1.

(2) *Revoked.*

Determination of claims and questions.

10. The provisions of the Social Insurance (Questions and Appeals) Regulations, shall apply to the determination of claims and questions under the Act, subject to the modification that every reference to “the Fund” shall be omitted, and the words “the Consolidated Fund” substituted.

Overlapping benefits.

11. The provisions of the Overlapping Benefits Regulations, shall apply to benefits under the Act subject to the modifications contained in Schedule 2.

Claims.

12. The provisions of regulation 16 of the Social Insurance (Contributions) Regulations shall apply to claims under the Act.

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SCHEDULE 1.

Regulation 9.

**MODIFICATIONS OF THE SOCIAL INSURANCE (CLAIMS AND PAYMENTS)
REGULATIONS.**

1. In regulation 2,—
 - (a) the words “Social Security (Insurance)” shall be inserted before “Act” in the definition of “the deceased” ;
 - (b) the words “retirement pension,” shall be inserted before “old age pension” in the definition of “pension”; and
 - (c) *deleted.*
2. In regulation 4,—
 - (a) the words “Social Security (Insurance)” shall be inserted before “Act” in sub-regulation (4) ; and
 - (b) *deleted.*
3. In regulation 7 the following additional paragraphs shall be inserted:—

“(5) A claim to retirement pension may be made at any time not more than four months before the date on which the claimant will, subject to the fulfilment of the necessary conditions, become entitled to such a pension.

(6) A notice of retirement for the purpose of section 6(3) (a) of the Act (which paragraph relates to retirement pensions) shall be given to the Director in writing not more than four months before the date of retirement.”
4. Immediately after regulation 10 the following additional regulation shall be inserted:—

“10A. Payment of unemployment benefit.

Any payment of unemployment benefit shall be made at weekly intervals in cash at the Department of Labour and Social Security or by such other means as may appear to the Director to be appropriate in the circumstances of any particular case.”

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5. In regulations 16 and 17, every reference to “the Fund” shall be omitted, and the words “the Consolidated Fund” substituted.

6. In Schedule 2, the following additional paragraphs shall be inserted:–

(1)	(2)	(3)
4. Unemployment benefit (not being an increase of benefit in respect of a child or adult dependant).	4. The day in respect of which the claim is made.	4. The benefit claimed.
5. Increase in respect of a child or adult dependant of unemployment benefit.	5. The period of one month from the day in respect of which the claim is made.	5. The benefit claimed.

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SCHEDULE 2.

Regulation 11.

MODIFICATIONS OF THE OVERLAPPING BENEFITS REGULATIONS.

1. *Spent.*
2. Regulation 3 shall be omitted and the following regulation substituted:–
 - “3. (1) Where, for any period, any personal benefit by way of retirement pension under the Act and one or more of the personal benefits specified in sub-regulation (3) (hereafter in this regulation referred to as “the specified benefits”) are or, but for this regulation, would be payable to any person, then for that period the personal benefit under the Act which is or would be payable shall be adjusted by reference to each of the specified benefits payable for that period in accordance with the provisions of sub-regulation (2).
 - (2) Where in accordance with sub-regulation (1) any personal benefit by way of retirement pension under the Act is required to be adjusted for any period by reference to any specified benefit or benefits, then the amount which, but for this regulation, would be payable for that period in respect of that personal benefit under the Act shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that specified benefit or specified benefits, and only the balance (if any) shall be payable for that period in respect of that personal benefit under the Act.
 - (3) The personal benefits referred to in this regulation as “the specified benefits” are any personal benefit by way of injury benefit or death benefit under the Social Security (Employment Injuries Insurance) Act, except death benefit payable to a person as the parent of the deceased.”
3. Regulation 4 shall be omitted.
4. In regulation 5,–
 - (a) the words “by way of unemployment benefit or retirement pension” shall be inserted after the first reference to “dependency benefit” in sub-regulation (1); and
 - (b) in sub-regulation (2) the words “under the Act, other than by way of old age pension, or” and “Non-Contributory Benefits and Unemployment” shall be omitted.

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5. In regulation 6,—
 - (a) the words “by way of unemployment benefit or retirement pension” shall be inserted after the reference to “dependency benefit” in paragraph (a) and (b) of sub-regulation (1) ; and
 - (b) in paragraph (2) the words “Social Security (Insurance) Act” shall be substituted for the words “Social Security (Non-Contributory Benefits and Unemployment Insurance) Act.”
6. In regulation 7 the words “Social Security (Insurance)” shall be inserted before the references to “Act” in paragraphs (a) and (b) of sub-regulation (1).
7. Regulation 12(2) shall be omitted.
8. The Schedule shall be omitted.