

Subsidiary Legislation made under ss. 11, 14, 15, 17, 18, 19, 21, 23, 25 and 28.

Social Insurance (Benefits) Regulations

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Amending enactments	Relevant current provisions	Commencement date
		3.10.1955
	<i>Commencement</i>	
regs.of 4.10.1960	r. 6	
21.11.1961	r. 6(4)	
19.5.1966	rr. 9, 26, Schs.2-6	
LN. 1971/008	–	
1973/060	Schs.2-6	
1973/075	r. 31(<i>corrigendum</i>)	
1974/113	r. 31, Schs.2-6	
1975/140	Schs.2-6	
1976/010	Schs.2-6	
1976/106	rr. 11-15, 17-21, 27, 32-36, 40-44, Schs.2-6	
1977/096	rr. 4(2)- (3), 17-20, 29-31, Schs.2-6	
1977/142	Schs.3-4	
1978/109	Schs.2-5	
1979/101	–	
1980/114	Schs.3-4	
1980/130	Sch.3 (<i>corrigendum</i>)	
1981/116	r. 20(3), Schs.3-4	
1982/086	Schs.3-4	
1983/102	Schs.3-4	
1984/095	Schs.3-4	25.12.1984
1985/140	Schs.3-4	25.12.1985
1986/126	Schs.3-4	23.12.1986
1987/168	Schs.3-4	29.12.1987
1988/152	rr. 21, 36, Schs.3-4	22.12.1988
1996/094	rr. 3(2), 4(2)-(3), 7(2)-(4). 16-36, Schs.3-4, 6	1.10.1996
1999/158	rr. 6(2), (4), 7(2)-(3), 8, 10, Sch.1	25.7.1999
Act. 2000-15	Schs.2, 5	10.2.2000
LN. 2004/134	Schs.2, 5	1.7.2004
2007/068	Sch.2	1.7.2006
Act. 2011-29	r. 6(4)	1.7.2009
LN. 2013/132	r. 44(2), Schs.2, 5	24.6.2013

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Act. 2014-10	rr. 2, 4(1)(b), 9(b), 39(1)(a), (c)	28.3.2014
2015-11	r. 9	30.6.2014
LN. 2015/145	Sch.2	1.8.2015

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omitted.

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omitted.

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omitted.

Title.

1. These Regulations may be cited as the Social Insurance (Benefits) Regulations.

PART I.—GENERAL.

Interpretation.

- 2.(1) In this regulations, unless the context otherwise requires,—

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

“parent” includes a step-parent.

- (2) For the purposes of the Act and of these regulations, a man and his wife or civil partner shall not be deemed to be living otherwise than together unless they are permanently living in separation either by agreement or under an order of a court, or one of them has deserted the other and the separation which is incident to the desertion has not come to an end.

Computation of earnings or remuneration.

- 3.(1) For the purposes of section 2(7) of the Act (which subsection empowers the Director to prescribe the basis on which the amount of a person's earnings or remuneration for any period shall be calculated or estimated for the purposes of the Act) the following provisions shall apply—

- (a) the earnings or remuneration to be taken into account shall be limited to the net remuneration or profit derived by the person from any occupation (including any occupation in an employment which, in accordance with any provision of the Act or regulations made thereunder, is to be disregarded) and, in particular, in so far as the earnings or remuneration 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 or remuneration of a person for any period are, by reason of the circumstances of the occupation in which he is engaged, not immediately ascertainable, the earnings or remuneration for that period shall be calculated or

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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.

(2) *omitted.*

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;

- (b) for the purposes of this paragraph a man and his wife or civil partner 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) *omitted.*

Calculation of yearly average.

5. For the purpose of section 10(3) of the Act (which subsection relates to the calculation of the yearly average of contributions) the yearly average of contributions paid by or credited to a person in relation to benefit of any description shall be calculated by dividing, by the number of years comprised in the period over which the average is to be calculated, the sum total of the contributions as an insured person paid by or credited to that person in respect of that period, other than contributions which are not paid on their due dates and are not treated in accordance with regulations under the Act as so paid.

Absence from Gibraltar.

6.(1) The provisions of sections 11(2), 18(3) and 23(1)(a) of the Act, shall have effect subject to the following provisions of this regulation.

(2) A woman shall not be disentitled to a maternity grant or maternity allowance by reason of the confinement occurring outside Gibraltar or the Campo district.

(3) A person shall not be disqualified from receiving a death grant by reason of the death occurring outside Gibraltar or the Campo district.

(4) A person shall not be disqualified from receiving death grant, maternity grant or maternity allowance, by reason of being absent from Gibraltar or the Campo district.

Imprisonment, etc.

7.(1) The provisions of section 23(1)(b) of the Act (which paragraph provides for disqualification for the receipt of benefit during periods of imprisonment and detention in legal custody) shall have effect subject to the exceptions contained in the following provisions of this regulation.

(2) A person shall not, by reason of undergoing a period of imprisonment or detention in legal custody, be disqualified for receiving maternity grant or maternity allowance or death grant.

(3) The payment to any person of any benefit-

(a) which is expected from the operation of paragraph (b) of section 23(1) of the Act by virtue of sub-regulation (2); 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 the person is undergoing imprisonment or detention in legal custody;

Provided that maternity grant or maternity allowance, death grant and any other benefit to whom paragraph (b), of this sub-regulation 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 Fund for any sum so paid.

Disqualifications to be disregarded.

8. 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 Part II of 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.

PART II.—MATERNITY BENEFITS.**Maternity grant in expectation of confinement.**

9. In a case where a woman makes a claim for a maternity grant based on her insurance or that of her husband or civil partner and indicates therein that she desires that the provisions of section 11 of the Act shall apply to her with the substitution, for the condition that she has been confined, of the condition that it is to be expected that she will be confined,—

- (a) that section shall so apply to her in relation to that claim; and
- (b) in their application to such a case, the contribution conditions for a maternity grant as set out in paragraph I of Part I of Schedule 3 to the Act shall apply as if, for subparagraph (2) (b) of that paragraph there were substituted the following:—
 - (b) the expression “relevant time” means the contribution week in which it is to be expected that the claimant will be confined or, where the relevant person is the husband or civil partner and he or she was dead or over pensionable age on the date of the making of the claim, the date of his attaining pensionable age, or dying under that age.

Certificates of confinement or expected confinement.

10. Every woman by whom or on whose behalf a claim for maternity grant or maternity allowance is made shall furnish evidence—

- (a) where the claim is made in respect of expectation of confinement, that it is to be expected that she will be confined; or
- (b) where the claim is made by virtue of the fact of confinement, that she has been confined,

and shall furnish such evidence by means of a certificate given in accordance with the rules for certification set out in Schedule 1, on the appropriate form as set out therein, or by such other means as the determining authority may accept as sufficient in the circumstances of any particular case.

Partial satisfaction of contribution conditions (I).

11.(1) Where a woman would be entitled to a maternity grant at the rate specified in Part II or Part IIA of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid or credited in respect of the relevant contribution year, she shall nevertheless be entitled to a grant in accordance with sub-regulation (2) if not less than thirteen contributions have been paid or credited in respect of the relevant contribution year.

(2) Maternity grant shall be payable at the reduced rate specified in column (2) of Part I of Schedule 2 to these regulations which corresponds with the number of contributions paid or credited in the relevant contribution year as shown in column (1) of that Part of that Schedule.

Partial satisfaction of contribution conditions (II).

12.(1) Where a woman would be entitled to a maternity grant at the rate specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid since the 1st day of January, 1968, she shall nevertheless be entitled to a grant in accordance with sub-regulation (2) if not less than thirteen contributions have been paid since the 1st day of January, 1968.

(2) Maternity grant shall be payable at the reduced rate specified in column (2) of Part II of Schedule 2 to these regulations which corresponds with the number of contributions paid since the 1st day of January, 1968, as shown in column (I) of that Schedule.

Partial satisfaction of contribution conditions (III).

13.(1) Where a woman would be entitled to a maternity grant at the rate specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid or credited in respect of the relevant contribution year, she shall nevertheless be entitled to a grant in accordance with sub-

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regulation (2) if not less than thirteen contributions have been paid or credited in respect of the relevant contribution year.

(2) Maternity grant shall be payable at the reduced rate specified in column (2) of Part III of Schedule 2 to these regulations which corresponds with the number of contributions paid or credited in the relevant contribution year as shown in column (I) of that Part of that Schedule.

Partial satisfaction of contribution conditions (IV).

14.(1) Where a woman would be entitled to a maternity grant at the rate specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied both as respects the number of contributions paid or credited in respect of the relevant contribution year and as respects the number of contributions paid since the 1st day of January, 1968, she shall nevertheless be entitled to a grant in accordance with sub-regulation (2) if not less than thirteen contributions have been paid or credited in respect of the relevant contribution year and not less than thirteen contributions have been paid since the 1st day of January, 1968.

(2) Where the number of contributions paid or credited in the relevant contribution year corresponds with any of the numbers in column (1) of Part IV of Schedule 2 to these regulations and the number of contributions paid since the 1st day of January, 1968, corresponds with any of the numbers shown at the head of columns (2) to (4) of that Part of that Schedule, then maternity grant shall be payable at the reduced rate which is applicable both to the number of contributions shown in column (I) and the number of contributions shown at the head of whichever of columns (2) to (4) is appropriate.

Partial satisfaction of contribution conditions (V).

15.(1) Where a woman would be entitled to a maternity grant at the rate specified in Part VI of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid or credited in the relevant contribution year she shall nevertheless be entitled to a grant in accordance with sub-regulation (2) if not less than thirteen contributions have been paid or credited in respect of the relevant contribution year.

(2) Maternity grant shall be payable at the reduced rate specified in column (2) of Part V of Schedule 2 to these regulations which corresponds with the number of contributions paid or credited in the relevant contribution year as shown in column (1) of that Part of that Schedule.

PART III.—WIDOW'S BENEFIT AND WIDOWER'S PENSION.

16. to 21. *omitted.*

PART IV.–GUARDIAN'S ALLOWANCE.

22. to 28. *omitted.*

PART V.–OLD AGE PENSIONERS

29. to 36. *omitted.*

PART VI.–DEATH GRANT.

Meaning of “deceased” and “relevant person.”

37. This Part–

“the deceased” has the same meaning as in section 18 of the Act;

“the relevant person” means the person by whom the contribution conditions for death grant are to be satisfied.

Deaths outside Gibraltar, etc.

38. Subject to the provisions of the Act and these regulations, a death grant shall be payable in respect of a death occurring outside Gibraltar or the Campo district.

Priority of two or more claimants satisfying the conditions for death grant.

39.(1) Subject to the provisions of the Act and these regulations, where two or more claimants satisfy the conditions for receipt of a death grant in respect of the same death, that claimant shall be entitled to the grant who has incurred the expense of the actual burial or cremation and who–

- (a) in the case of the death of the relevant person (being married or in a civil partnership) is the widow, widower or surviving civil partner that person; or
- (b) in the case of the death of the relevant person (being unmarried) is a parent of that person; or
- (c) in the case of the death of the husband, wife or civil partner the relevant person, is the relevant person; or
- (d) in the case of the death of a child of the family of the relevant person, is the relevant person.

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(2) Where in the case of two or more such claimants' entitlement to death grant cannot be determined under sub-regulation (1), the Director shall decide which one of them shall be entitled to the grant.

(3) The Director may, in his discretion, suspend any proceedings on a claim for death grant, other than a claim by any such claimant as is specified in sub-regulation (1), for a period not exceeding one month from the date on which the claim was made, where he has reason to suspect that another claim may be made in respect of the same death by a person having a prior right by virtue of this regulation.

Partial satisfaction of contribution conditions (I).

40.(1) Where a person would be entitled to a death grant of one of the amounts specified in Part II of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to a grant in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full amount of a death grant under the Act is one of the amounts set out at the head of columns (2) to (4) of Part I of Schedule 5 then the grant shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (I) of that Schedule.

Partial satisfaction of contribution conditions (II).

41.(1) Where a person would be entitled to a death grant of one of the amounts specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to a grant in accordance with sub-regulation (2), if not less than thirteen contributions have been paid since the 1st day of January, 1968.

(2) Where the full amount of the death grant under the Act is one of the amounts set out at the head of columns (2) to (4) of Part II of Schedule 5 to these regulations, then the grant shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the number of contributions paid since the 1st day of January, 1968, as shown in column (1) of that Part of that Schedule.

Partial satisfaction of contribution conditions (III).

42. (1) Where a person would be entitled to a death grant of one of the amounts specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall

nevertheless be entitled to a grant in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full amount of the death grant under the Act is one of the amounts set out at the head of columns (2) to (4) of Part III of Schedule 5 then the grant shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (I) of that Part of that Schedule.

Partial satisfaction of contribution conditions (IV).

43.(1) Where a person would be entitled to a death grant of one of the amounts specified in Part IV of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied both as respects the yearly average of contributions paid or credited and as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to a grant in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen and not less than thirteen contributions have been paid since the 1st day of January, 1968.

(2) Where the full amount of the death grant is one of the amounts set out at the head of columns (2) to (7) of Part IV of Schedule 5 to these regulations, and the yearly average of contributions paid or credited corresponds with any of the numbers shown in column (I) of that Part of that Schedule, and the number of contributions paid since the 1st day of January, 1968, corresponds with any of the numbers shown at the head of columns (2) to (7) of that Part of the Schedule, then the grant shall be payable at the reduced rate which is applicable both to the number of contributions shown in column (I) and the number of contributions shown at the head of whichever of columns (2) to (7) is appropriate.

Partial satisfaction of contribution conditions (V).

44.(1) Where a person would be entitled to a death grant of one of the amounts specified in Part VI of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to a grant in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen.

(2) Death grant shall be payable at the reduced rate specified in column (2) of Part V of Schedule 5 to these regulations which corresponds with the number of contributions paid or credited in the relevant contribution year as shown in column (1) of that Part of that Schedule.

Amount of cost of burial or cremation payable from the Consolidated Fund or an association.

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45. The amount of the cost of the burial or cremation of any person by or under the direction of the Director of Medical and Health Services or by or under the direction of any such other association of persons to whom the provisions of section 18(5) of the Act are applicable, which may be paid under that subsection, shall be the sum which is payable from the Consolidated Fund or by the association for such burial or cremation, subject to the qualification that the amount shall not exceed three-fifths of the death grant which is payable in respect of the death of that person.

SCHEDULE 1.

Regulation 10.

RULES AND FORMS FOR THE PURPOSES OF MATERNITY GRANT OR
MATERNITY ALLOWANCE.

A. RULES FOR CERTIFICATION.

1. Certificates of confinement or expected confinement shall be in writing in ink or other indelible substance signed by a registered medical practitioner or certified midwife attending the woman.
2. The certificate shall be on a form provided by the Director for the purpose. The wording of the certificate shall be that set out in the appropriate form below.
3. Every certificate of confinement or expected confinement shall contain the following particulars:—
 - (a) the woman's name;
 - (b) in the case of a certificate of confinement the date and place of the confinement, and the date of the examination on which the certificate was based;
 - (c) in the case of a certificate of expected confinement, the week in which it is to be expected that the woman will be confined and the date of the examination on which the certificate was based;
 - (d) the date on which the certificate is given;
 - (e) where the certificate is signed by a midwife, either her registered number or her address and the date of her qualification; and shall bear, opposite the word "Signature", the signature of the person giving the certificate written after there have been entered on the certificate the woman's name and the date, or (as the case may be) the expected date, of the confinement.

B. FORMS OF CERTIFICATES.

- I. Certificate of confinement (to be given by a registered medical practitioner or certified midwife).

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I certify that I attended in connection with her confinement (a) which took place at (*address*) and that she was there delivered of a child (..... children (b)) on the day of 20.....

Signature.....

(If certified midwife, add registered number or address and date of qualification)
.....

Date of signing.....20.....

(a) Confinement is so defined in the Social Security (Insurance) Act, that this certificate can only be given—

(i) where labour results in the issue of a living child; or

(ii) where labour results in the issue of a dead child and pregnancy has lasted for at least 28 weeks.

The certificate must not be given in any other circumstances.

(b) Insert number of children, if more than one.

II. Certificate of expected confinement (to be given by a registered medical practitioner or certified midwife).

I certify that I examined on (*date*) and that in my opinion she may be expected to be confined in the week(a) which will include the..... day of20..... (*Here insert the expected day, of confinement*).

Signature

(If certified midwife, add registered number or address and date of qualification)
.....

Date of signing20

Any other remarks

NOTE:

(a) The week referred to is a contribution week, i.e., one, which begins on a Monday.

SCHEDULE 2.

REDUCED RATES OF MATERNITY GRANT.

PART I.

Regulation 11.

(1)	(2)
Number of contributions paid or credited in the relevant contribution year.	Reduced rates at which maternity grant is payable. £
35-39	5
30-34	4
25-29	3
19-24	2
13-18	1

PART II.

Regulation 12.

(1)	(2)
Number of contributions paid by the relevant person since 1st January, 1968.	Reduced rates at which maternity grant is payable. £
39-51	9
26-38	8
13-25	7

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PART III.

Regulation 13,

(1)	(2)
Number of contributions paid or credited in the relevant contribution year.	Reduced rates at which maternity grant is payable. £
35-39	9
30-34	7
25-29	5
19-24	3
13-18	2

PART IV.

Regulation 14.

(1)	(2)	(3)	(4)
Number of contributions paid or credited in the relevant contributions year.	Amount payable		
	on contributions which include 13-25 contributions paid since 1st January, 1968. £	on contributions which include 26-38 contributions paid since 1st January, 1968. £	on contributions which include 39-51 contributions paid since 1st January, 1968. £
35-39	6.00	7.00	8.00
30-34	4.75	5.50	6.25
25-29	3.50	4.00	4.50
19-24	2.25	2.50	2.75
13-18	1.25	1.50	1.75

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PART V.¹

Number of contributions paid or credited in the relevant contribution year	Reduced rates at which maternity grant is payable
35-39	£662
30-34	£508
25-29	£371
19-24	£235
13-18	£156

SCHEDULE 3.

omitted.

SCHEDULE 4.

omitted.

¹ The rates of benefits provided for in Part V shall apply only in respect of births that occur on or after 1st August 2015.

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	£	£	£
30-44	15.00	11.25	7.50
13-29	10.00	7.50	5.00

PART IV.

Regulation 43.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Yearly average of contributions paid or credited	on contributions which include 13-29 contributions paid since 1st January, 1968			on contributions which include 30-44 contributions paid since 1st January, 1968		
	Full rate of grant payable					
30-40	£20.00	£15.00	£10.00	£20.00	£15.00	£10.00
	12.50	8.75	5.83	13.75	10.00	6.67
13-29	8.33	5.83	4.17	9.17	6.67	4.58

PART V²

(1)	(2)
Yearly average of contributions paid or credited	Reduced rates at which Death Grant is payable
30-44	£452
13-29	£300

SCHEDULE 6.

omitted

² The rates of benefits provided for in Part V shall apply only in respect of deaths that occur on or after 24 June 2013.