

Tanzania

National Social Security Fund (Employment Injury Benefits) Regulations, 2002

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Government Notice 97 of 2002

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Sections 50 and 89; G.N. No. 97 of 2002]

Part I – Preliminary provisions (regs 1-2)

1. Citation

These Regulations may be cited as the National Social Security Fund (Employment Injury Benefits) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires:

"**Act**" means the National Social Security Fund Act ¹;

"**accredited medical care provider**" means a medical care provider appointed by the Board for purposes of regulation 5(4);

"**average daily earnings**" means average daily earnings as set out in the First Schedule to these Regulations;

"**average monthly earnings**" means average monthly earnings as set out in the First Schedule to these Regulations;

"**beneficiary**" means an insured person who satisfies the conditions for employment injury benefit under the Act;

"**benefit**" means employment injury or occupational disease benefit;

"**Board**" means the Board of Trustees of the National Social Security Fund;

"**death benefit**" means the benefit payable to a dependant in respect of an insured person who dies as a result of an employment injury or an occupational disease;

"**Director-General**" means the Director-General of the Fund;

"**dormant member**" means any person who was registered as an insured person under the Fund but the liability to contribute to the Fund has ceased due to operation of law or have ceased to be employed by an employer who is liable to register with the Fund;

"**employment injury**" means an injury sustained during working hours, at a work place; or at a place where one would not have been except for his employment including commuting accidents when using employer's motor vehicle, motorcycle bicycle, plane, boat, train or ship;

"**Fund**" means the National Social Security Fund;

"**insurable earnings**" means the earnings on the basis of which insured person contributions is made;

"**insurable employment**" means employment as for insured person for an employer who is required to be registered with the Fund;

"**insured person**" means a person employed in an insurable employment and registered as an insured person under the Act except self employed and dormant member;

"**licenced medical practioner**" means a medical practioner holding a licence issued by the Tanzania Medical Council;

"**medical care provider**" includes a dispensary, health centre, hospital or any other medical clinic;

"**Medical Board**" means a Medical Board appointed by the Minister under section 32 of the Act;

"**minor injury**" means an injury that arise out of and in the cause of employment but does not prevent the insured person from continuing with his routine work;

"**occupational disease**" means a disease contracted as a result of exposure to risk factors arising from a particular occupation and which is prescribed in the Third Schedule to these regulations;

"**permanent disability**" means a disability of an insured person resulting from a work related injury, or an occupational disease which continues beyond the end of the period for which temporary disablement benefit is payable;

"**registered medical practitioner**" means any person professing to practise medicine or surgery or holding himself out as ready to give medical or surgical treatment to patients for gain;

"**temporary disability**" means an incapacity of an insured person resulting from work related injury or occupational disease for a limited period of time; that period being a maximum of 26 weeks, commencing with the date of the relevant accident, or date of development of the relevant disease;

"**Tribunal**" means the Medical Appeals Tribunal.

Part II – Benefits (regs 3-12)

3. Notification

- (1) Every insured person who sustains personal injury caused by an accident arising out of and in the course of his employment shall give notice of such injury to his employer either in writing or orally as soon as practicable after the accident occurs.
- (2) Every insured person who contracts an occupational disease specified in the Third Schedule shall give notice of such disease to his employer either in writing or orally as soon as he has medical evidence of the occupational disease:

Provided that such notice required to be given by an insured person under subregulations (1) and (2) may be given by any other person acting on behalf of the insured person.

- (3) The employer of the beneficiary shall notify the Director-General the details of the accident or disease on form EIB 2(A) or EIB 2 (PD) as set out in the Fourth Schedule within a period of fourteen days from the date of receipt of the Form and deliver it at the nearest office of the Fund.

4. Application for benefits

- (1) An insured person or any other person acting on his behalf shall apply for employment injury benefits by completing Form EIB 1(A) or EIB 1(PD) for personal injury or occupational disease as set out in the Fourth Schedule.
- (2) The application form, together with the documents prescribed in regulation 36 of the National Social Security Fund (General) Regulations² shall be delivered to the nearest office of the Fund.
- (3) The claim for employment injury benefit shall comply with the provisions of the National Social Security Fund (General) Regulations, 1998 regarding time limits for claiming and submission of necessary supporting documents.

5. Conditions for award of benefits

- (1) An insured person who has sustained an employment injury or occupational disease whilst in insurable employment shall be entitled to benefits under these Regulations.
- (2) Every insured person claiming temporary incapacity benefits shall furnish evidence of temporary incapacity in respect of his days of temporary incapacity by means of a medical certificate given by an accredited medical provider in accordance with these Regulations on form MED 1:
- (3) The Director-General may at his discretion request for any other evidence of temporary disablement if in his opinion the circumstances of a particular case so justify, and the additional evidence shall contain such particulars and shall be attested in such manner as may be specified by the Director-General.
- (4) The medical certificate form MED 1 Part II shall be completed by the accredited medical provider to state the form of incapacity which in the opinion of the accredited medical provider renders the insured person temporarily incapable of work and gives the initial duration of the incapacity so incurred.
- (5) Where an insured person states that the temporary disablement started from a date earlier than the date of medical examination, the accredited medical provider may, if he is satisfied with the date of commencement of incapacity, so certify temporary disablement from such earlier date, and that date shall not ordinarily be earlier than seven days immediately prior to the examination.
- (6) An insured person who has sustained personal injury of a minor nature shall not be entitled to any benefit under these Regulations.
- (7) The accredited medical provider's cost for assessing the state and extent of incapacity in relation to an injured insured person shall be paid by the Fund and the medical certificate shall be provided free of charge to the insured person for the purpose of his claim for the benefit.

6. Notification of entitlement to benefit

An insured person who claims for benefit under these Regulations shall be notified of his entitlement to the benefit or rejection of his claim by forms EIB 14 or EIB 15 as set out in the Fourth Schedule.

7. Benefits

Employment injury or occupational disease benefit shall comprise of—

- (a) cash benefit for temporary or permanent disablement;
- (b) death benefit; or

²

G.N. No 418 of 1998

- (c) artificial limb.

8. Cash benefit

- (1) An insured person is entitled to cash benefit in the case of temporary disablement benefit, at the rate of fifty *per centum* of the average daily insurable earnings calculated by reference to the earnings received during the six months of insurable employment immediately prior to the month in which the accident occurred for a maximum period of twenty-six weeks commencing from the date of the accident or date of development of the disease.
- (2) An insured person who is eligible for temporary disablement benefit shall not be entitled to receive the 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 that period.
- (3) For purpose of computing the first three days of any continuous period of incapacity for work mentioned in subregulation (2)—
- (a) public holiday and Sundays shall be included;
- (b) the commencement of the calculation of the period of three days shall begin from the day on which the insured person sustained the employment injury whether or not he was paid wages in respect of that day.
- (4) In the case of permanent disablement benefit the benefit shall be calculated by reference to the appropriate proportion of the one hundred *per centum* rate of disablement to which the beneficiary is entitled and the one hundred *per centum* shall be sixty *per centum* of the insured person's average monthly insurable earnings which shall be paid monthly throughout the period of the disability.
- (5) An insured person shall be entitled to permanent 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 14 amounts to not less than one *per centum*.
- (6) Where the extent of the permanent disablement is assessed for the period taken into account as amounting to less than thirty *per centum*, permanent disablement benefit shall be paid in the form of a lumpsum and the amount payable shall—
- (a) if the period taken into account by the assessment is limited by reference to the beneficiary's life or is not less than seven years, be a lumpsum equal to eighty-four times the amount which bears to the monthly amount of the permanent total disablement benefit the same ratio as the percentage loss of faculty, as assessed, bears to one hundred percent; or
- (b) in any other case be a lumpsum equal to the number of months for which the assessment has been given times the amount which bears to the monthly amount of the permanent total disablement benefit the same ratio as the *per centum* loss of faculty is assessed bear to any one hundred *per centum*.
- (7) Where the extent of the permanent disablement is assessed for the period taken into account amounting to thirty *per centum* or more, the permanent disablement benefit shall be paid in the form of a pension for that period, payable monthly in arrears, and shall be that portion of the permanent total disablement benefit which the percentage assessed bears one hundred *per centum*.
- (8) Where a period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary if it occurs before that date:
- Provided further that where the period is for life the pension shall be paid for a maximum of seven years.
- (9) In the case of permanent total disablement, and where the Medical Board is satisfied that the insured person is in need of the constant attendance of another person, the rate of pension shall be increased by twenty-five *per centum*.

- (10) The rate of permanent disablement benefit shall be determined in accordance with the Second Schedule to these Regulations.
- (11) Where a person suffers two or more successive accidents, against which he is insured under the Act, he shall not for the same period be entitled to receive temporary disablement benefit and permanent disablement benefit, but shall be intitled to receive the benefit which is payable at a higher rate.
- (12) Where a medical practitioner grants a certificate—
 - (a) that an insured person is suffering from an occupational disease causing disablement or that the death of an insured person was caused by an occupational disease; and
 - (b) that such disease was due to the nature of the insured person's employment,the insured person, if he is deceased, his survivors shall be entitled to claim benefits under these Regulations as if the disablement or death had been caused by an employment injury.

9. Artificial limbs

- (1) Artificial limbs shall be provided to an insured person who sustains injury in the course of his employment and upon certification of the Medical Board that the injured person requires to be provided with the artificial limbs.
- (2) In the case of provision of artificial limbs the Fund shall provide those limbs which are available in specified public hospitals within the country.
- (3) The artificial limbs provided to an insured person may be replaced on recommendation by the Medical Board.

10. Death benefit

- (1) Where an insured person dies as a result of an employment injury before a claim to employment injury benefit could be made, the disability will be assumed to have been hundred *per centum* and the survivors will be paid a pension equal to sixty *per centum* of the deceased insured person average monthly insurable earnings.
- (2) Where an insured person dies as a result of an employment injury during the period in which employment injury benefit is in payment, the survivors shall be paid a lumpsum equal to the insured person's monthly benefit multiplied by twelve.
- (3) Where the survivors entitled to death benefit under subregulation (1) and (2) are also eligible to another survivors benefit under the Act at the same time they shall be entitled to receive the benefit which is payable at a higher rate.
- (4) A claim to death benefit shall be submitted to the Board on Form EIB 13 by the survivors concerned or by their legal representative or in case of a minor, by the guardian or where there is no guardian, by any other person as the Board may deem fit.
- (5) The claim for death benefit shall comply with the provisions of the National Social Security Fund (General) Regulations³, regarding time limits for claiming and submission of necessary supporting documents.
- (6) Death benefit pension payment shall cease to be paid at the expiration of seven years from the date of accident or marriage of a surviving spouse or death or attainment of eighteen years whichever comes earlier.

11. Negligence by an insured person

In any case where an accident results from the negligence of an insured person, the Fund shall not be liable to provide any of the employment injury benefits to that person.

12. Time limits for claims to employment injury

All applications for employment injury benefit shall be made within a prescribed period, as follows—

- (a) benefit for temporary disablement benefit within a period of twelve weeks, commencing with the date of the accident;
- (b) permanent disablement benefit within a period of twelve weeks commencing with the first day for which the benefit is claimed:

Provided that the Director-General may, where there is a good cause for delay, consider any claim received after expiration of the limitation period.

Part III – Medical Board and Medical Appeals Tribunal (regs 13-20)

13. Composition and responsibility of the Medical Board

- (1) The Medical Board shall consist of a chairman and two members, all of whom shall be experienced medical practitioners.
- (2) A Medical Board shall be constituted when there is an issue requiring determination and such Medical Board shall sit at such a place as the matter to be determined may require.
- (3) It shall be the duty of the Director-General to inform the Medical Board of the need for a medical examination and that Medical Board shall be responsible for determining—
 - (a) the degree of disability as specified in the Second Schedule to these Regulations;
 - (b) whether the relevant loss of faculty resulted from the relevant accident;
 - (c) the period for which the assessment is to be made;
 - (d) whether the assessment should be provisional or final.
- (4) The Medical Board shall notify the Director-General of its findings on subregulation (3) in writing.

14. Review of decision of Medical Board

In the case of a provisional assessment, the Medical Board acting on a request from the Fund shall provide a further assessment.

15. Appeals against a decision of a Medical Board

Where either the claimant or the Director-General is aggrieved with the decision of a Medical Board, he may at not later than one month from the date on which the decision was communicated to him, lodge an appeal against such decision to the Tribunal.

16. Powers of the Medical Appeals Tribunal

The Tribunal may revise a decision of a Medical Board.

17. Decisions of Medical Appeals Tribunal

The decision of the majority of the members shall be the decision of the Tribunal and the decision shall be final and conclusive.

18. Procedures of Medical Appeals Tribunal

- (1) An Appeal shall be made on an approved form and shall contain a statement of the grounds upon which the appeal is based.
- (2) The Tribunal may, on application made to that effect and on good cause shown to its satisfaction, extend the time within which an appeal may be lodged.
- (3) The appellant shall be entitled to be heard by the Tribunal in person, if the appellant is the Director-General he may be represented by an authorized officer.
- (4) Where any member of the Tribunal other than the chairman is absent and the appellant agrees to the matter being proceeded with, notwithstanding the absence, the Tribunal as constituted may hear and determine the matter in issue.
- (5) The decision of the Tribunal shall be given in writing and shall include a statement of the facts on which the decision is based.
- (6) The decision of the Tribunal shall be communicated in writing to any party to the proceedings and to such other person who, in the opinion of the Tribunal, is an interested party.

19. Fees for lodging an appeal

Any beneficiary lodging an appeal against the decision of the Medical Board shall pay a non-refundable fee as declared by the Minister.

20. Remuneration of the Tribunal and Medical Board

A member of Tribunal and Medical Board shall be entitled to receive such remuneration as the Board may determine from time to time.

Part IV – Miscellaneous provisions (regs 21-23)

21. Measures to improve the welfare of an insured person

- (1) The Board may promote measures or co-operate with existing institutions for the improvement of the health, occupational safety and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled and injured and may incur in respect of such measures expenditures within such limits as may be prescribed.
- (2) The Board may provide support for facilities for physical or vocational rehabilitation as may be prescribed.
- (3) An insured person who has to undergo physical rehabilitation or attend approved vocational rehabilitation courses or who has to be fitted with prosthetic appliances may be paid or re-imbursed travelling and other expenses reasonably incurred in connection with the measures and courses and fitting of the appliances.

22. Factory inspection

- (1) Every labour inspector under the Ministry responsible for labour shall continue to be responsible for inspection of factories, officers or shops on matters concerning the health, safety or comfort of workers in line with all safety regulations.

- (2) The Board shall, when considering a claim for work injury benefit, take into consideration, certified reports made by labour inspectors in relation to the factory, office or shop where the claimant was employed at the time of injury.
- (3) In case an accident occurs due to the failure of the employer to undertake reasonable measures in safeguarding the working condition, the Fund shall not be liable to provide employment injury benefits to any of his employees and if the same is provided the Fund shall claim from the employer all costs incurred under these Regulations.

23. Liability under Workmen's Compensation Act

Except for the provisions of regulation 22(3) employers registered with the Fund and paying contributions for their insured person shall not be liable to pay workman's compensation to their employees.

First Schedule

1. For the purpose of regulation 2 the expression "average daily earnings" means—
 - (a) where the insured person has been employed for a period of six months immediately preceding the month in which the injury occurred, the sum of the earnings on which contributions were based over that period divided by 180;
 - (b) where the insured person has been employed for a period of less than six months immediately preceding the month in which the injury occurred, the sum of the insurable earnings over that period of complete months, divided by the total number of days in that period;
 - (c) where the insured person has been employed for a period of more than one year immediately preceding the month in which the injury occurred the sum of 12 months contributions, divided by 12; or
 - (d) where the insured person has been employed for a period of less than one year immediately preceding the month in which the injury occurred, the sum of insurable earnings over the period of complete months, divided by the total number of months in that period.

Second Schedule

[Rates omitted. Items for which compensation may be claimed are listed below.]

Loss of two limbs

Loss of both hands or of all fingers and both thumbs

Total loss of sight

Total paralysis

Injuries resulting in being bedridden permanently

Any other injury causing permanent total disablement

Loss of remaining eye by one eyed workman

Loss of remaining arm by one armed workman

Loss of remaining leg by one legged workman

Loss of arm at shoulder

Loss of arm between elbow and shoulder

Loss of arm at elbow

Loss of arm between wrist and elbow

Loss of hand at wrist

Loss of four fingers and thumb of one hand

Loss of four fingers

Loss of thumb

both phalanges

one phalanx

Loss of index finger

three phalanges

two phalanges

one phalanx

Loss of middle finger

three phalanges

two phalanges

one phalanx

Loss of ring finger

two phalanges

one phalanx

Loss of little finger

three phalanges

two phalanges

one phalanx

Loss of metacarpals

first or second (additional)

third, fourth or fifth (additional)

Loss of leg at or above knee

Loss of leg below knee

Loss of foot

Loss of toes

all

great, both phalanx

great, one phalanx

other than great, if more than one toe lost

Loss of eye

eye out

sight of

lens of

sight of, except perception of light

Loss of hearing

Both ears

one ear

Total permanent loss of use of member shall be treated as loss of member.

The percentage of incapacity for ankylosis of any joint shall be reckoned as from 25 to 100 *per centum* of the incapacity for loss of the part at the joint, according to whether the joint is ankylosed in a favourable or unfavourable position.

In the case of a right handed workman, an injury to the left arm or hand and in the case of a left handed workman, to the right arm or hand shall be rated at ninety *per centum* of the above percentages.

Where there is a loss of two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand.

Where there are two or more injuries, the sum of the percentages for such injuries may be increased, and, where such injuries are to the hand the following basis of computing the increased shall be adopted, namely—

- (a) where two digits have been injured, the sum total of the percentages shall be increased by forty *per centum* of such total;
- (b) where three digits have been injured, the sum total of the percentages shall be increased by thirty *per centum* of such sum total;
- (c) where four digits have been injured, the sum total of the percentages shall be increased by twenty *per centum* of such sum total.

A one-eyed workman who on entering employment has failed to disclose the fact that he is one eyed to his employer shall, if he loses his remaining eye, be entitled to compensation in respect of a degree of disablement of thirty *per centum* only.

For the purposes of this Schedule, a one-eyed workman means a workman who has lost the sight of one eye.

Third Schedule

Occupational diseases

Anthrax	Any occupation involving: Work in connection with animals or the handling of animal carcasses or parts of such carcasses or of wool, hair, bristles, hides, skins, hoofs or horns.
Chrome ulceration or its sequelae	The use or handling of chromic acid chromate or bichromate of ammonium, potassium, sodium or zinc, or any preparation or solution containing any of these substances.
Compressed air illness or its sequelae	Subjection to compressed air.
Inflammation or ulceration of the skin produced by dust, liquid or vapour (excluding chrome ulceration or its sequelae).	Exposure to the action of radium radio-active substances or X-rays.
Pathological manifestations due to— (a) radium or other radio-active substance; (b) X-rays.	Exposure to the action of radium radio-active substances or X-rays.
Primary epitheliomatous cancer or ulceration of the skin	The use or handling of, or exposure to, tar, pitch, bitumen, mineral oil compound, product, or residue of any of these substances.
Subcutaneous cellulitis of the hand (beat hand)	Manual labour causing severe or prolonged friction or pressure on the hand.
Subcutaneous or acute bursitis arising at or about the knee (beat knee)	Manual labour causing severe or prolonged friction or pressure at or about the knee.
Telegraphist's cramp	The use of Morse-key telegraphic instruments for prolonged periods.
Poisoning by—	
Arsenic or the sequelae thereof	The use or handling of, or exposure to the fumes, dust, or vapour of, arsenic or a compound of arsenic or a substance containing arsenic.

Benzene or a homologue, and the sequelae thereof: A nitro or amino derivative of benzene or of a homologue of benzene, and the sequelae thereof	The use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homologues or a nitro or amino derivative of benzene or of a homologue of benzene.
Cyanide, or the sequelae hereof (including cyanide rash)	The use or handling of, or exposure to the fumes of, or dust or vapour containing any cyanide or a substance containing cyanide.
Dinitrophenols or their salts; dinitrosubstituted phenols or their salts	The use or handling of, or exposure to the fumes of, or vapour containing any dinitrophenol or its salt or any dinitro-substituted phenol or its salt.
Halogen derivatives of hydrocarbons of the aliphatic series	The use or handling of, or exposure to the fumes of, or vapour containing any halogen derivative of any hydrocarbon of the aliphatic series.
Lead, or the sequelae thereof	The use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.
Organophosphorus compounds	The use or handling of, or exposure to the fumes of, or vapour containing any of the organophosphorus compounds.

Fourth Schedule

Forms

[Editorial note: The forms have not been reproduced.]