

THE NATIONAL SOCIAL SECURITY FUND ACT.

Statutory Instrument 222—5.

The National Social Security Fund (Benefits and Refunds) Regulations.

Arrangement of Regulations.

Regulation

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THE NATIONAL SOCIAL SECURITY FUND ACT.

Statutory Instrument 222—5.

The National Social Security Fund (Benefits and Refunds) Regulations.

(Under sections 24, 25, 26 and 52 of the Act.)

Preliminary.

1. Citation.

These Regulations may be cited as the National Social Security Fund (Benefits and Refunds) Regulations.

Claims and refunds.

2. Claims to be made on approved form.

A claim for benefit or refund of funeral expenses shall be made in writing to the managing director on a form approved by the Minister; but, in any particular case, the managing director may at his or her discretion accept another written claim or a defective or incomplete claim or a claim with which other prescribed documents are not sent.

3. Managing director's discretion to treat one claim for another.

The managing director may at his or her discretion treat a claim for any benefit as a claim for any other benefit, a claim for survivor's benefit as a claim for refund of funeral expenses and a claim for refund of funeral expenses as a claim for survivor's benefit.

4. Duties of claimants.

(1) Every person who makes a claim for benefit for refund of funeral expenses shall—

- (a) if reasonably so required, attend at such office or place as the managing director may require;
- (b) undergo such examination by a medical practitioner as the managing director may decide is necessary to determine his or her age, the degree of his or her physical or mental disability or

- the extent of his or her capacity to earn a reasonable livelihood;
- (c) have the claim witnessed by a person of a description printed on the appropriate form approved by the Minister, exhibit the membership card of the member concerned to that person, and in the presence of that person sign the claim or impress on the claim form his or her right thumbprint, or if he or she has no right thumb his or her left thumbprint;
 - (d) in the case of a claim for immigration grant or survivor's benefit or refund of funeral expenses, send to the managing director the membership card of the member concerned;
 - (e) in the case of a claim for survivor's benefit, furnish a certificate or other evidence of the death of the member concerned, evidence of the relationship to the deceased member of the person claiming and information about other relatives of the deceased member;
 - (f) in the case of a claim for refund of funeral expenses, furnish a certificate or other evidence of the death of the member concerned, evidence of payment by the person claiming of the expenses of that member's funeral, and information about the relatives of the deceased member and about other persons who may have paid the whole or part of expenses of the funeral.
- (2) In this regulation—
- (a) “medical practitioner” means a person registered under section 21 of the Medical and Dental Practitioners Act to practise medicine or surgery;
 - (b) “membership card” means a membership card issued under the National Social Security Fund (Registration and Records) Regulations.

5. Mode of payment.

- (1) Any sum payable by way of benefit shall be paid by cheque, in cash or by such other suitable document of payment or by such other method as the managing director may decide.
- (2) When any cheque or other document of payment has been sent by ordinary or registered post, delivery of the document shall, unless the contrary is proved, be deemed to have been effected at the time at which a letter would be delivered in the ordinary course of post.
- (3) When the managing director is satisfied that a cheque or other

instrument of payment has been lost or destroyed, he or she may on receipt of a duly executed indemnity issue a duplicate of the cheque or other instrument of payment.

(4) Where any sum has been authorised to be paid out of the fund by way of benefit or refund of funeral expenses to any person and that person has not obtained payment within one year after the date of authorisation, the sum shall be credited to the account of the member, and the right to pay the sum shall elapse; but in any case the managing director may, in his or her discretion, extend that period by such further period as he or she may determine.

6. Apportionment of survivor's benefit.

Where there are more persons than one having under the Act equal claims to survivor's benefit, the benefit shall be apportioned equally among those persons, unless in a particular case the managing director is satisfied that a different apportionment would be appropriate.

7. Additional conditions for refund of funeral expenses.

It shall be a condition for entitlement to refund of funeral expenses—

- (a) that the person claiming has contributed not less than one thousand shillings towards the cost of the funeral of the member concerned; and
- (b) that the person claiming makes his or her claim within one year of the death of the member concerned.

8. Determination of valid claims by more than one person.

(1) Where there are more persons than one having, under the Act, valid claims for refund of funeral expenses and the total amount of the claims exceeds five thousand shillings or the balance in the deceased member's account, the sum to be refunded shall be determined in accordance with section 24(2) of the Act and then apportioned in accordance with subregulations (2) to (4) of this regulation.

(2) Subject to subregulations (3) and (4) of this regulation, the amount refunded to each person shall as far as possible be in proportion to his or her payment towards the total amount paid as funeral expenses for the deceased member by those persons receiving refunds of such expenses.

(3) The amount apportioned to each person except the person or persons receiving the smallest amount shall be a multiple of one shilling.

(4) If in any case the amount determined in accordance with subregulation (1) of this regulation exceeds the total amount apportioned under subregulations (2) and (3) of this regulation, the managing director shall decide notwithstanding the provisions of these subregulations, to which of the persons having valid claims the difference shall be refunded.

9. Adjustment of benefit where workers compensation is payable.

(1) Where survivor's benefit or invalidity benefit is payable by reason of the death or invalidity of a member in circumstances giving rise to a claim under the Workers Compensation Act, the managing director may pay the benefit at such time or times and by such number of installments as he or she deems to be in the best interest of the beneficiary.

(2) Subject to subregulation (1) of this regulation any benefit, other than immigration grant, may at the discretion of the managing director be paid by way of monthly or quarterly installments of not less than the monthly or quarterly wage of the member at the time of payment of the last standard contribution under the Act.

10. Receipt of benefit to be full discharge.

The receipt of a member of the fund or his or her legal representative or of a person authorised to receive the benefit on his or her behalf shall be a full and sufficient discharge to the fund for the sum specified in the receipt.

11. Appointment of person to act for beneficiary.

Where the managing director is satisfied that a beneficiary or any person is unable for the time being to act for himself or herself, he or she may appoint in writing any other person, who is in his or her opinion a proper person, to receive, administer or exercise under the Act any right or power on behalf of the beneficiary or person unable to act for himself or herself, and any receipt given by that other person shall be a good and sufficient discharge to the fund.

12. Payment of benefit or funeral expenses to a person in legal custody.

The managing director may in his or her discretion direct that payment of benefit or refund of funeral expenses to any person undergoing imprisonment or detention in legal custody shall be postponed or shall be made to the Commissioner of Prisons to be applied on behalf of that person.

13. Refund of contributions paid in error.

(1) Where a person has paid any contributions to the fund in error, the managing director shall, subject to subregulations (2), (3) and (4) of this regulation, return the contributions to that person and shall adjust the account of the member in respect of whom the contributions were paid accordingly.

(2) In calculating the amount of any repayment to be made under this regulation the managing director may—

- (a) deduct the amount of any contributions due at the date of repayment, and any amount so deducted shall be credited to the member in respect of whom it is deducted;
- (b) deduct the amount of any penalty due under section 14 of the Act.

(3) Standard contributions paid in error by an employer in respect of an employee and not deducted from his or her wages may be repaid to the employer, but if so deducted may be repaid to the employee or with his or her consent in writing, to his or her employer.

(4) Any person desiring to apply for the refund of any contribution paid in error shall within one year of the date on which that contribution was paid make the application in such form and in such manner, being in writing, as the managing director may from time to time determine.

14. Information for tracing a member or his or her relatives.

Every contributing employer shall furnish such information as the managing director may require for the purpose of tracing a member or his or her dependent relatives.

15. Postponement of payment of benefit or funeral expenses.

The managing director may at his or her discretion postpone payment of benefit or refund of funeral expenses—

- (a) for a period not exceeding thirty days after the relevant claim is

- determined;
- (b) for such longer period as the managing director may decide if inquiries are being made concerning the entitlement of the beneficiary or any person to the benefit or refund;
 - (c) until any appeal concerning entitlement to or the amount of or the apportionment of the benefit or refund is determined if such an appeal is received or if it appears probable to the managing director that an appeal or a further appeal concerning any of these matters will be made.

Determination of claims and questions.

16. Appointment of officer to determine claims, etc.

Every claim for benefit or for refund of funeral expenses and every question arising in relation to a person's membership of the fund shall be determined by an officer of that fund appointed in writing by the Minister to determine the claim and questions arising under or in connection with the Act.

17. Appeals.

(1) Any person who is dissatisfied with the decision of an officer appointed under regulation 16 of these Regulations may within thirty days appeal to the managing director against that decision, and that appeal shall be determined by the managing director or by the deputy managing director of the fund.

(2) Every appeal shall be in writing and shall give the reasons for the appeal; and the decision of the managing director or the deputy managing director shall be in writing and shall give reasons for that decision.

18. Reference of question of law to the High Court.

Subject to any rules of court made by the Chief Justice under section 26 of the Act—

- (a) an officer appointed under regulation 16 of these Regulations, the managing director or the deputy managing director of the fund may refer to the High Court any question of law arising on any claim or question to be determined under regulation 16 of these Regulations or any appeal to be determined under regulation 17 of these Regulations and shall on receipt of the court's decision

- on that question of law determine that claim or question or appeal;
- (b) any person who is dissatisfied with the decision under regulation 17 of these Regulations of the managing director or deputy director of the fund on any appeal may within thirty days appeal to the High Court on any question of law arising on that appeal provided that no such appeal shall lie on a question already decided by the High Court on a reference under paragraph (a) of this regulation.

19. Regulations to apply to claim on review.

These Regulations shall apply to a claim or question considered or decided on review under section 27 of the Act.

History: S.I. 9/1986.

Cross References

Medical and Dental Practitioners Act, Cap. 272.

National Social Security Fund (Registration and Records) Regulations,
S.I. 222-2.

Workers Compensation Act, Cap. 225.
