Whereas it is provided by section 13(2) of the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966(a) that the provisions of that Act shall come into force with effect from such date or dates (whether before or after the passing of that Act) as the Minister of Health and Social Services may by order appoint:

Now, therefore, I, the Right Honourable William James Morgan, Minister of Health and Social Services, hereby make the following Order:

1. The provisions of section 2 of the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966 shall come into force with effect from the 1st March, 1966 and the other provisions of that Act shall come into force with effect from the 23rd May, 1966.

2. This Order may be cited as the Workmen's Compensation (Supplementation) Commencement Order (Northern Ireland) 1966.

Given under my hand this 19th day of May, 1966.

Wm. J. Morgan,
Minister of Health and Social Services

1966. No. 105 **[C]**

WORKMEN'S COMPENSATION

Supplementation

REGULATIONS, DATED 19TH MAY, 1966, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, WITH THE CONSENT OF THE MINISTRY OF FINANCE, UNDER THE WORKMEN'S COMPENSATION (SUPPLEMENTATION) ACT (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services, with the consent of the Ministry of Finance, in exercise of powers conferred by the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966

(2) (*a*) These regulations shall come into force with effect from the 1st March, 1966 being the date appointed for the coming into operation of section 2 of the Act so far as it is necessary to give effect to that section.

(a) 1966. c. 14 (N.I.).

(*b*) Subject to paragraph (*a*) these regulations shall come into force with effect from the 23rd May, 1966.

(3) In these regulations—

"the Act" means the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966;

"allowance" means an allowance payable by virtue of Part II;

"beneficiary" means a person entitled to an allowance;

"claimant" means a person claiming an allowance and includes, in relation to the review of an award or a decision, a beneficiary under the award or affected by the decision;

"the determining authority" means the Ministry or the Commissioner as the case may be;

"the relevant injury or disease" in relation to any person means the injury or disease in respect of which he is, or has since the appropriate date specified in Part II been, entitled to weekly payments by way of workmen's compensation;

"unemployment benefit" means unemployment benefit under the National Insurance Act (Northern Ireland 1966(**a**).

(4) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent, if it was sent by post to that person at his ordinary or last known address.

PART II

ALLOWANCES

Basic allowances

2.—(1) Subject to the following provisions of these regulations, a person who is or has at any time after 23rd July, 1951 been entitled to weekly payments by way of workmen's compensation in consequence of an accident happening before 1st January, 1924, shall be entitled to a basic allowance payable out of the Industrial Injuries Fund during any period of total or partial incapacity for work resulting from the relevant injury or disease so long as he is ordinarily resident in the United Kingdom.

(2) In this regulation the expression "a period of total incapacity for work resulting from the relevant injury or disease" includes a period during which a person is treated as subject to such an incapacity under the provisions of regulation 3.

(3) The weekly rate of a basic allowance—

(*a*) in the case of a basic allowance payable to a person in respect of a period of total incapacity for work resulting from the relevant injury or disease shall be 40s., less the amount of his workmen's compensation; and

(*b*) in the case of a basic allowance payable to a person in respect of a period of partial incapacity for work resulting from the relevant injury or disease shall be the difference between two-thirds of the amount representing his weekly loss of earnings (ascertained in accordance with regulation 7) due to the relevant injury or disease and the amount of his workmen's compensation, so however that the aggregate of the said weekly rate and the amount of his workmen's compensation shall in no such case exceed 40s.

(**a**) 1966. c. 6 (N.I.).

Partial incapacity to be treated as total in certain cases

3.—(1) For the purpose of the references in regulation 2 to a period of total incapacity for work resulting from the relevant injury or disease, a person who is unable to obtain employment shall, subject to the provisions of paragraph (3), be treated as subject to such an incapacity:

(*a*) if he is being treated as being so for the purposes of his workmen's compensation in respect of the relevant injury or disease; or

(*b*) if it appears to the determining authority—

(i) that, having regard to all the circumstances, it is probable that he would, but for the continuing effects of the relevant injury or disease, be able to obtain work in the same grade in the same class of employment as before the happening of the accident; or

(ii) that his inability to obtain employment is a consequence, wholly or mainly, of the relevant injury or disease.

(2) Where a person who is unable to obtain employment fails to satisfy the conditions laid down in paragraph (1) because of the supervening effects of an injury or disease other than the relevant injury or disease, or of physical or mental infirmity due to old age, he shall nevertheless be deemed to satisfy the said conditions if he proves to the satisfaction of the determining authority—

(*a*) that he would have satisfied either of the conditions set out in sub-paragraph (*b*) of the said paragraph at the time when he first became subject to the aforesaid supervening effects and that he was then unable to obtain employment; and

(*b*) that since that time the effects of the relevant injury or disease have not become substantially less serious.

(3) This regulation shall not apply to any person for any period for which he receives unemployment benefit.

(4) This regulation shall also apply for the purposes of section 3(3) of the Act (which relates to the circumstances in which a person is to be treated as subject to total incapacity for work resulting from the relevant injury or disease).

Major incapacity allowances

4.—(1) Subject to the following provisions, a major incapacity allowance shall be payable out of the Industrial Injuries Fund to a person who is or has since 24th July, 1956 been entitled to weekly payments by way of workmen's compensation—

(*a*) in respect of any injury or disease if he is as a result of that injury or disease totally incapable of work and likely to remain so for a considerable period; or

(*b*) in respect of two or more injuries or diseases if he is as the joint result of those injuries or diseases totally incapable of work and likely to remain so for a considerable period;

so long as he is ordinarily resident in the United Kingdom.

(2) The weekly rate of a major incapacity allowance payable to a person shall be the corresponding disablement pension rate less the amount of any workmen's compensation and less the amount of any basic allowance payable to him for that week.

(3) For the purposes of this regulation an allowance payable by virtue of any scheme under the Workmen's Compensation (Supplementation) Act

(Northern Ireland) 1951(a) shall be treated as a weekly payment by way of workmen's compensation.

Lesser incapacity allowance

5.—(1) Subject to the following provisions, a lesser incapacity allowance shall be payable out of the Industrial Injuries Fund to a person, not being a person entitled to a major incapacity allowance, who was immediately before the coming into force of section 12(1) of the Act receiving an allowance payable by virtue of a scheme under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951, or who is or has since the coming into force of section 2 of the Act been entitled or may be expected to be entitled to a basic allowance or to weekly payments by way of workmen's compensation, other than notional payments, for any period during which he is either totally or partially incapable of work as a result of the relevant injury or disease, and is ordinarily resident in the United Kingdom.

(2) The weekly rate of a lesser incapacity allowance payable to a person shall be determined by reference to the loss of earnings (ascertained in accordance with the provisions of regulation 7) suffered by that person due to the relevant injury or disease; and where the loss of earnings, ascertained as aforesaid, is of an amount shown in the first column of Schedule 1, shall be the rate opposite thereto in the second column of that Schedule and where such loss of earnings is of an amount (not less than one shilling) not so shown, shall be the rate in the said column opposite to the next larger amount which is so shown:

Provided that—

(i) where the loss of earnings, ascertained as aforesaid, is in excess of the largest amount shown in the said first column the weekly rate of lesser incapacity allowance shall be the rate in the second column opposite to such largest amount; and

(ii) the weekly rate of lesser incapacity allowance payable to any person shall be reduced by the amount of any workmen's compensation payable to him for that week in excess of 40s.

(3) In this regulation the expression "notional payment" means a payment by way of workmen's compensation awarded or paid for the purpose of safeguarding a potential entitlement to compensation and not related to any existing loss of earnings:

Provided that a weekly payment by way of workmen's compensation made to any person shall be deemed to be a notional payment for the purposes of this regulation if—

(*a*) the amount of such weekly payment is less than sixpence; or

(*b*) during the period of twelve months immediately preceding 30th November, 1965 either—

(i) no weekly payments by way of such compensation were made to that person; or

(ii) any such weekly payments made to him were of an amount less than sixpence;

unless that person proves to the satisfaction of the determining authority that such weekly payment is not a notional payment.

Amount of workmen's compensation

6.—(1) Any reference in regulations 2, 4 and 5 to the amount of a person's

(a) 1951. c. 16.

workmen's compensation shall (subject to the provisions of the following paragraphs of this regulation) be taken as referring to the amount (if any) of the weekly payments to which for the time being he is, or would but for the determination of his right be, entitled in respect of the relevant injury or disease:

Provided that—

(*a*) where in fixing the amount of those weekly payments under the provisions relating thereto regard was had to any payment, allowance or benefit which he might receive during the period of his incapacity from the person liable for the compensation and the amount is shown to have been reduced in consequence, the amount of those weekly payments shall for the purposes of this regulation be taken to be the reduced amount so fixed with the addition of the amount of the reduction; and

(*b*) where the amount of those weekly payments has not been fixed under the provisions relating thereto, it shall be fixed for the purpose of this regulation without regard to any such payment, allowance or benefit as aforesaid; and

(*c*) where the determining authority is satisfied that an allowance or allowances under these regulations would, apart from the provisions of this sub-paragraph, be payable or be payable at a higher rate by reason of the amount of those weekly payments, fixed under the provisions relating thereto, not being the amount which, in the opinion of the determining authority, ought reasonably and properly to be so fixed, the amount of those weekly payments shall, for the purposes of this regulation, be taken to be such as the determining authority may determine ought reasonably and properly to be so fixed, having regard to the rules for calculating such weekly payments under the provisions relating to his workmen's compensation.

(2) Where a person is or has at any time after 23rd July, 1951 been entitled to payments under the Workmen's Compensation (War Addition) Acts 1917 and 1919 but had on or before that date ceased to be entitled to any other weekly payments by way of workmen's compensation in respect of the relevant injury or disease, the amount of his workmen's compensation shall for the purposes of regulations 2, 4 and 5 be calculated as if he had not ceased to be entitled to such other payments.

(3) Where a person is or since the date of the coming into force of section 2 of the Act has been entitled to payments under the Workmen's Compensation (Supplementary Allowances) Act (Northern Ireland) 1940, as amended by the Workmen's Compensation (Temporary Increases) Act (Northern Ireland) 1943, but had before that date ceased to be entitled to any other weekly payments by way of workmen's compensation in respect of the relevant injury or disease, the amount of his workmen's compensation shall for the purposes of regulations 4 and 5 be calculated as if he had not ceased to be entitled to such other payments.

(4) Where by reason of the seasonal nature of a person's employment, or for any other cause, weekly payments by way of workmen's compensation were not made to that person at the same rate for each week during the twelve months preceding the making of a claim for, or an application for review of a decision as to, an allowance, the amount of that person's workmen's compensation shall for the purposes of regulations 2, 4 and 5 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.