EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations amend the provisions of the Workmen's Compensation (Supplementation) Regulations (Northern Ireland), 1956, which contain the requirement to repay to the Industrial Injuries Fund wrongly paid allowances, so that they correspond to similar provisions in the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, as amended by the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962.

The Regulations also provide that the original provisions shall continue to apply, to any appeal from, or any review of, a decision as to repayment given before the coming into operation of these regulations.

1962. No. 23 **[C]**

WORKMEN'S COMPENSATION

Supplementation

REGULATIONS, DATED 19TH FEBRUARY, 1962, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, WITH THE CONSENT OF THE MINISTRY OF FINANCE, UNDER THE WORKMEN'S COMPENSATION (SUPPLEMENTATION) ACT (NORTHERN IRELAND), 1951.

The Ministry of Labour and National Insurance, with the consent of the Ministry of Finance, in exercise of powers conferred by the Workmen's Compensation (Supplementation) Act (Northern Ireland), 1951(a), as extended by section 1 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations, which may be cited as the Workmen's Compensation (Supplementation) Amendment (No. 2) Regulations (Northern Ireland), 1962, shall be read as one with the Workmen's Compensation (Supplementation) Regulations (Northern Ireland), 1951(c) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 28th February, 1962.

Amendment of the Scheme made by the principal regulations

2. The Scheme made by the principal regulations under the Workmen's Compensation (Supplementation) Act (Northern Ireland), 1951 (which Scheme forms the Schedule to those regulations, and is hereinafter referred to as "the Scheme"), shall be amended in accordance with the following provisions of these regulations and shall accordingly have effect as set out in the Schedule hereto.

(a) 1951. c. 16.
(b) 1962. c. 9.
(c) S.R. & O. (N.I.) 1951, No. 136.

Amendment of Part I of the Scheme

3. For Article 1 of the Scheme (which Article contains the interpretation provisions relating to the Scheme) there shall be substituted the following Article:

"Interpretation

1.—(1) In this Scheme—

"the Act" means the Workmen's Compensation (Supplementation) Act (Northern Ireland), 1951;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946(**a**);

"the National Insurance Act" means the National Insurance Act (Northern Ireland), 1946(**b**);

"the 1956 Act" means the Workmen's Compensation (Supplementation) Act (Northern Ireland), 1956(**c**);

"the 1962 Act" means the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962;

"the Benefit Regulations" means the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland), 1948(**d**);

"the Industrial Injuries Fund" means the Northern Ireland Industrial Injuries Fund;

"the Ministry" means the Ministry of Labour and National Insurance;

"the Commissioner" means the Commissioner or a deputy Commissioner appointed for the purposes of the Industrial Injuries Act;

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

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

"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;

"workmen's compensation" means—

(*a*) in relation to a case to which Part II applies, compensation under the Workmen's Compensation Act, 1906(**e**), the Workmen's Compensation (Silicosis) Act, 1918(**f**), or the Workmen's Compensation Acts, 1897 and 1900(**g**), or under any contracting-out scheme duly certified under any of those Acts;

(*b*) in relation to a case to which Part IIA applies, compensation under the Workmen's Compensation Acts (Northern Ireland),

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(a) 1946. c. 21. (b) 1946. c. 23. (c) 1956. c. 9.
(d) S.R. & O. (N.I.) 1948, No. 203 as amended by S.R. & O. (N.I.) 1949, No. 73; 1951, No. 102; No. 182; 1952, No. 140; No. 199; 1953, No. 132; No. 135; 1955, No. 15; No. 164; 1956, No. 139; 1957, No. 131; No. 243; No. 264; 1958, No. 114; 1959, No. 93; 1960, No. 25; No. 140; 1961, No. 2 and No. 79.
(e) 6 Edw. 7. c. 58. (f) 8 & 9 Geo. 5. c. 14. (g) 60 & 61 Vict. c. 37; 63 & 64 Vict. c. 22.

1927 to 1943(a), or under any contracting-out scheme duly certified thereunder;

"the relevant injury or disease", in relation to any person, means—

(*a*) for the purposes of Part II, the injury or disease in respect of which he is or has since the commencement of the Act(b) been entitled to weekly payments by way of workmen's compensation, as defined for the purposes of that Part, in consequence of an accident happening before the 1st January, 1924;

(*b*) for the purposes of Part IIA, the injury or disease in respect of which he is or has since the passing of the 1962 Act(c) been entitled to weekly payments by way of workmen's compensation, as defined for the purposes of that Part, in consequence of an accident happening after the beginning of the year 1924.

(2) Any reference in this Scheme to the happening of an accident shall, in relation to a case of disease, be construed in the same way as for the purposes of the Acts relating to workmen's compensation.

(3) (*a*) For the purposes of Part II—

(i) a person shall be deemed entitled to weekly payments by way of workmen's compensation, as defined for the purposes of that Part, in consequence of an accident happening before the 1st January, 1924, at any time when he would be so entitled if the amount he is earning or able to earn in some suitable employment or business, or the amount of any payment, allowance or benefit received by him otherwise than by way of such workmen's compensation, or both, were sufficiently reduced; and

(ii) a payment under the Workmen's Compensation (War Addition) Acts, 1917 and 1919(d), shall be treated as a weekly payment by way of workmen's compensation.

(*b*) For the purposes of Part IIA—

(i) a person shall be deemed entitled to weekly payments by way of workmen's compensation, as defined for the purposes of that Part, in consequence of an accident happening after the beginning of the year 1924, at any time when he would be so entitled if the amount of any payment, allowance or benefit received by him otherwise than by way of such workmen's compensation were sufficiently reduced; and

(ii) a payment under the Workmen's Compensation (Supplementary Allowances) Act (Northern Ireland), 1940(e), as amended by the Workmen's Compensation (Temporary Increases) Act (Northern Ireland), 1943(f), shall be treated as a weekly payment by way of such workmen's compensation.

(4) Any notice or other document required or authorised to be given or sent to any person under the provisions of this Scheme 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."

(a) 17 & 18 Geo. 5. c. 16 (N.I.); 21 & 22 Geo. 5. c. 16 (N.I.); 4 & 5 Geo. 6. c. 18 (N.I.); 5 & 6 Geo. 6. c. 16 (N.I.); 1943. c. 13.
(b) 24th July, 1951. (c) 13th February, 1962.
(d) 7 & 8 Geo. 5. c. 42; 9 & 10 Geo. 5. c. 83. (e) 4 & 5 Geo. 6. c. 18 (N.I.). (f) 1943. c. 13.

Amendment of Article 2 of the Scheme

4. In Article 2 of the Scheme (which Article relates to the allowances payable under the Scheme in cases of pre-1924 accidents) there shall be made the following amendments:

(*a*) after paragraph (3) there shall be inserted the following paragraph:

"(3A) For the purpose of calculating the weekly rate of the allowance of a beneficiary for any period for which he is not entitled to an allowance under the 1956 Act, the sum of forty shillings specified in sub-paragraphs (*a*) and (*b*) of paragraph (3) shall be increased to the sum of fifty shillings:

Provided that any increase in the weekly rate by virtue of this paragraph shall not exceed the sum of two shillings and sixpence for any period for which the beneficiary is entitled to an allowance in respect of partial disablement under any scheme made under the Industrial Diseases (Benefit) Acts, 1951 and 1954(a)."

(*b*) in paragraph (4) (which paragraph provides for an increase in the allowance payable in respect of a period of total incapacity for work where there is a wife) for the words "or wholly or mainly maintaining his wife or would under the provisions of the Industrial Injuries Act be treated as doing so" there shall be substituted the words "or is contributing at a weekly rate of not less than sixteen shillings to the maintenance of his wife".

Amendment of Article 7 of the Scheme

5. In Article 7 of the Scheme (which Article provides for entitlement to allowances in respect of two or more different injuries or diseases) for the words "forty shillings" there shall be substituted the words "fifty shillings".

Addition to the Scheme

6. After Article 7 of Part II of the Scheme there shall be added the following Part:

"PART IIA

Allowances payable under the Scheme in cases of post-1923 accidents

7A.—(1) Subject to the following provisions of this Scheme, a person who is or has since the passing of the 1962 Act been entitled to weekly payments by way of workmen's compensation in consequence of an accident happening after the beginning of the year 1924, shall be entitled to an allowance under this Part at a weekly rate not exceeding ten shillings payable out of the Industrial Injuries Fund during any period of total or partial incapacity for work resulting from the relevant injury or disease during which he is not entitled to an allowance under the 1956 Act, so long as he is ordinarily resident in the United Kingdom:

Provided that a person shall not be entitled to an allowance for any period during which he is entitled to any payment under the Family Allowances and National Insurance Act, 1961.

(2) The weekly rate of an allowance—

(*a*) in the case of an allowance payable to a person in respect of a period of total incapacity for work resulting from the relevant injury or disease shall not exceed such sum as would together with the weekly payment by way of workmen's compensation disregarding any supplementary allowance for a child amount to two-thirds of his average weekly earnings before the happening of the accident

(a) 15 & 16 Geo. 6. & 1 Eliz. 2. c. 4; 2 & 3 Eliz. 2. c. 16.

(ascertained in accordance with Article 7C), nor where the amount of the workmen's compensation includes the amount of any supplementary allowance for a child, exceed such sum as would together with that compensation, including the supplementary allowance, amount to seven-eighths of such average weekly earnings;

(*b*) in the case of an allowance payable to a person in respect of a period of partial incapacity for work resulting from the relevant injury or disease shall not exceed the difference between two-thirds of the amount representing his weekly loss of earnings (ascertained in accordance with Article 7C) due to the relevant injury or disease and the amount of his workmen's compensation disregarding any supplementary allowance for a child, nor where the amount of the workmen's compensation includes the amount of any supplementary allowance for a child, exceed the difference between seven-eighths of the amount representing that loss of earnings and the amount of the workmen's compensation inclusive of the supplementary allowance.

(3) For the purposes of this Article "supplementary allowance" means an allowance under the Workmen's Compensation (Supplementary Allowances) Act (Northern Ireland), 1940, as amended by the Workmen's Compensation (Temporary Increases) Act (Northern Ireland), 1943.

Amount of workmen's compensation

7B.—(1) Any reference in Article 7A to the amount of a person's workmen's compensation shall (subject to the provisions of paragraph (2)) 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 Article 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 purposes of this Article without regard to any such payment, allowance or benefit as aforesaid.

(2) Where a person is or has since the passing of the 1962 Act 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 has 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 Article 7A be calculated as if he had not ceased to be entitled to such other payments.