Claims and Payments

REGULATIONS, DATED 8TH JULY, 1952, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

1952. No. 118

The Ministry of Labour and National Insurance, in exercise of the powers conferred by sections 25, 27, 32 (2), 55 (1) and 85 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and of all other powers enabling it in that behalf, hereby makes the following regulations :—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Claims and Payments) Amendment Regulations (Northern Ireland), 1952, shall be read as one with the National Insurance (Industrial Injuries) (Claims and Payments) Regulations (Northern Ireland), 1948, as amended (hereinafter referred to as " the principal regulations "), and shall come into operation on the 14th July, 1952.

Amendment of regulation 1 of the principal regulations

2. The following additional definitions shall be inserted in paragraph (2) of regulation 1 of the principal regulations immediately after the definition of " benefit order " :—

" ' serial order ' means one of a series of orders, including benefit orders, for the payment of a sum on account of benefit which is or has been contained in a book of such orders ;

' draft ' means a payable order or any other instrument whatsoever (except a serial order) for the payment of a sum on account of benefit."

Amendment of regulations 12 and 17 of and the Second Schedule to the principal regulations

3. For the provisions of regulation 12 and paragraph (2) of regulation 17 of the principal regulations and the Second Schedule to those regulations there shall be substituted the provisions contained in this regulation and Schedule A to these regulations (which Schedule shall be included in the principal regulations as the Second Schedule thereto) :—

" **12.**—(1) Every claim for any benefit specified in column (1) of the Second Schedule to these regulations shall be made within the appropriate prescribed time specified opposite to that benefit in column (2) of that Schedule :

Provided that if in any case the claimant proves that there was reasonable cause for the failure to make the claim before the date on which it was made, the prescribed time for making that claim shall be extended to the date on which the claim is made.

(2) If a person fails to make his claim for any such benefit within the prescribed time, he shall forfeit benefit to the extent specified opposite thereto in column (3) of the said Second Schedule :

Provided that if in any case the claimant proves —

(*a*) that on a date earlier than the date on which the claim was made he was entitled to the benefit ; and

(*b*) that throughout the period between the earlier date and the date on which the claim was made there was reasonable cause for delay in making such claim ;

he shall not forfeit any benefit to which he would have been entitled if the claim had been made on the said earlier date.

(3) In determining whether the proviso to either of the foregoing paragraphs has been satisfied by a person who is or has been an in-patient in a hospital, and who makes a claim for injury benefit, such proviso shall in relation only to that claim be deemed to have been satisfied by him in respect of that one of the following periods which is appropriate, in so far as it is relevant for the purpose thereof :—

(*a*) where the person concerned has been discharged from the hospital, the period commencing on the date of his admission thereto as an in-patient and ending thirteen weeks thereafter or three weeks after the date of his discharge, whichever period is the shorter ; or

(*b*) where the person concerned has not been so discharged, the period of thirteen weeks from the date of his admission to the hospital as an in-patient.

(4) For the purposes of the last foregoing paragraph :—

(*a*) in ascertaining the date of admission to hospital of the person concerned, where that person has previously been an in-patient in one or more hospitals for one or more periods, any such period shall be taken into account, provided the interval, or (if there was more than one previous period as an in-patient) each interval, between the end of such period and the beginning of the appropriate period specified in that paragraph does not exceed three weeks ;

(*b*) the expression ' hospital ' means any institution for the reception and treatment of persons suffering from illness or mental defectiveness and any maternity home (and,

for this purpose, ' illness ' includes mental illness and any injury or disability requiring medical treatment or nursing); and

(*c*) the expression ' in-patient ' means a person admitted as an in-patient to a hospital for the purpose of receiving there treatment (not being treatment during convalescence) by or under the direction of a registered medical practitioner."

Consequential amendment of regulation 12A *of the principal regulations*

4. The following regulation shall be substituted for Regulation 12A of the principal regulations as amended :—

Special provisions for injury benefit

12A.—(1) Notwithstanding the provisions of the last foregoing regulation, where for the purposes of the provisions of the National Insurance (Industrial Injuries) (Medical Certification) Regulations (Northern Ireland), 1948, as amended, it has been certified that a person is incapable of work and will continue to be incapable of work for the period specified in the certificate, a claim for injury benefit or for an increase of injury benefit may, unless the Ministry otherwise directs, be made by that person in respect of the period of four weeks or such shorter period as the Ministry may in the circumstances determine, in either case commencing immediately after the date of the certificate.

(2) Any claim for injury benefit or for an increase of injury benefit made by any such person may, if it is made on the form containing the certificate, be treated by the Ministry as a claim also in respect of any days in the said period of four weeks or in any such shorter period, as the case may be.

(3) Where a claim for injury benefit (including any increase thereof) has been made in accordance with the foregoing provisions of this regulation, and under arrangements made by the Ministry with the consent of the Ministry of Finance payment by way of such benefit has been made to any person pending the determination of that claim, without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and the orders and regulations made thereunder, the payment so made shall, for the purposes of the said provisions, be deemed to be a payment of such benefit duly made :

Provided that in any case in which the conditions for the receipt of the benefit were not fulfilled, if it is shown to the satisfaction of an insurance officer, a local appeal tribunal or the umpire, as the case may be, that any person to whom such a payment has been made has not acted in good faith in all respects as to the obtaining and

receipt thereof, he shall be liable to repay to the Northern Ireland Industrial Injuries Fund any sum so paid."

Amendment of regulation 18 of the principal regulations

5.—(1) Regulation 18 of the principal regulations (which relates to the extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in Part I of Schedule B to these regulations.

(2) In paragraph (1) of the said regulation 18, after the word " benefit " there shall be inserted the words " not being a gratuity " and for the word " three " there shall be substituted the word " six " and for the proviso to that paragraph there shall be substituted the following proviso :—

" Provided that in calculating the said period of six months no account shall be taken of —

(*a*) any period during which a serial order or draft containing the sum is in the possession of the Ministry or any paying office at which it is payable, other than a period after written notice has been given that the serial order or draft is available for collection ;

(*b*) any period during which the Ministry has under consideration any representation that a serial order or draft containing the sum has not been received or has been lost, mislaid or stolen ;

(*c*) any period during which the person concerned is for the time being unable to act by reason of any mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed one year ; or

(*d*) any period during which the determination of any question as to such extinguishment is pending."

(3) In paragraph (2) of the said regulation 18 —

(*a*) after the words " a sum payable by way of benefit shall " there shall be inserted the words " subject to the provisions of the next following paragraph and of paragraph (3) of regulation 23 " ;

(*b*) in sub-paragraph (*a*), for all the words after " in the case of a sum " there shall be substituted the words " contained in a serial order, on the date on which the order is due to be paid " ; and

(*c*) for sub-paragraph (*b*), there shall be substituted the following sub-paragraphs —

" (*b*) in the case of a sum contained in a draft —

(i) if the draft is sent through the post, on the date on which it would be delivered in the ordinary course of post ; and

(ii) in any other case, on the date of issue of the draft ;

(*c*) in the case of a sum not contained in a serial order or draft, where notice is given orally or in writing that the sum is available for collection —

(i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post ; and

(ii) in any other case, on the date of the notice ; and

(*d*) in any case to which none of the preceding sub-paragraphs of this paragraph applies, six months (or such longer period as the Ministry may determine in the circumstances of any particular case) after the date on which the sum became payable."

(4) Immediately after paragraph (2) of the said regulation 18 there shall be inserted the following paragraph :—

" (2A) In determining when a sum is receivable under the provisions of the foregoing paragraph, the following provisions shall apply :—

(*a*) If a person proves that through no fault of his own he did not receive any such serial order or draft or written notice until a date later than the appropriate receivable date determined in accordance with the provisions of the foregoing paragraph, the sum contained in the order or draft or referred to in the notice shall be receivable —

(i) on that later date, or

(ii) on the date which is six months after the said appropriate receivable date,

whichever is the earlier.

(*b*) If a person proves that through no fault of his own he has not received any such serial order or draft or written notice, the sum contained in the original order or draft or referred to in the notice shall be receivable —

(i) on the date determined in accordance with the provisions of the foregoing paragraph on the basis of the issue of any further order or draft or notice in respect of that sum, or

(ii) on the date which is six months after the receivable date determined in accordance with the provisions of the foregoing paragraph on the basis of the original order or draft or notice,

whichever is the earlier.