Appointed Day

ORDER, DATED 4TH FEBRUARY, 1948, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

1948. No. 35

The Ministry of Labour and National Insurance, in exercise of the powers conferred by subsection (1) of section 87 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and of all other powers enabling it in that behalf, hereby makes the following order :—

1. The appointed day for the purposes of the said Act shall be the 5th day of July, 1948.

2. This order may be cited as the National Insurance (Industrial Injuries) (Appointed Day) Order (Northern Ireland), 1948.

Given under the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 4th day of February, 1948.

L.S.

Brian Maginess,
Minister of Labour and National Insurance for Northern Ireland.

Benefit

REGULATIONS, DATED 1ST JULY, 1948, MADE BY THE INDUSTRIAL INJURIES JOINT AUTHORITY AND THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

Amended 1948 SR+O (N.1) No 344
1949 " " 73

1948. No. 203

The Industrial Injuries Joint Authority, in exercise of the powers conferred by sections 12, 14 (5), 15, 18, 19, 23, 29, 30, 33, 34, 35, 78, 81 and 85 of, and paragraphs 1, 5 and 7 of the Fourth Schedule to, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and the Ministry of Labour and National Insurance, in exercise of the powers conferred by section 32 (1) of the said Act, and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I

General

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland), 1948, and shall come into operation on the 1st July, 1948.

(2) In these regulations, unless the context otherwise requires—

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

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

" the Workmen's Compensation Acts " means the Workmen's Compensation Acts (Northern Ireland), 1927 to 1943, or the enactments repealed by the Workmen's Compensation Act (Northern Ireland), 1927, or the enactments repealed by the Workmen's Compensation Act, 1906;

" the Ministry " means the Ministry of Labour and National Insurance for Northern Ireland;

" determining authority " means an insurance officer, a local appeal tribunal or the umpire, as the case may require, appointed or constituted for the purposes of the Act;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment, scheme, order, instrument or regulations shall include references to any such enactment, scheme, order, instrument or regulations as amended by any subsequent enactment, scheme, order, instrument or regulations.

(4) The Interpretation Act, 1921, applies to the interpretation of these regulations as it applies to the interpretation of an Act of the Parliament of Northern Ireland.

PART II

Injury and Disablement Benefit

Assessment of disablement and prescribed degrees of disablement.

2.—(1) Subsection (2) of section 12 of the Act (which subsection lays down general principles relating to the assessment of the extent of disablement) shall have effect subject to the provisions of this regulation.

(2) Where as a result of the relevant accident the claimant has suffered an injury specified in the first column of the First Schedule to these regulations then, unless the case is one to which the next following paragraph applies, the loss of faculty suffered by the claimant as a result of that injury shall be treated for the purpose of section 12 of the Act (which section relates generally to the assessment of disablement and to disablement benefit) as resulting in the degree of disablement set against such injury in the second column of the said First Schedule:

Provided that where a person has suffered an injury specified in the said First Schedule which includes any other injury so specified, this paragraph shall only apply to the first mentioned injury.

(3) Where as a result of the relevant accident the claimant has suffered an injury specified in the said First Schedule, but—

(*a*) as a result of that injury the claimant may be expected, having regard to his physical and mental condition at the date of the assessment in respect thereof, to be subject to greater disabilities than would normally be incurred as a result of such an injury; or

(*b*) the part of the body by which the injury was sustained would not, apart from that injury, have been normal at the date of the assessment;

the loss of faculty suffered by the claimant as a result of such injury shall be assessed by reference to the degree of disablement set against such injury in the second column of the said First Schedule subject to such adjustment as may be reasonable in the circumstances of the case.

(4) For the purpose of assessing the extent of the disablement resulting from any injury which is not specified in the said First Schedule, the medical board or the medical appeal tribunal (as the case may be) may have such regard as may be appropriate to the provisions of paragraph (2) or paragraph (3) of this regulation.

(5) Where as a result of the relevant accident a claimant has suffered an injury to an organ of his body which in a person whose physical condition is normal would be one of two similar organs, the functions of which would be interchangeable or complementary, in assessing the extent of the disablement resulting from the relevant loss of faculty for any period during which the claimant may be expected to be subject to any disability resulting from that injury—

(*a*) any disability in respect of the other organ to which the claimant would in any case have been subject by reason of a congenital defect, or an injury or disease received or contracted before the relevant accident and not attributable to any accident against which he was insured under the Act, shall nevertheless be treated as having been incurred as a result of the relevant loss of faculty;

(*b*) subject as hereafter provided in this regulation, any disability in respect of the other organ to which the claimant would not have been subject but for some injury or disease received or contracted after the relevant accident and not attributable to that accident or any other accident against which he was insured under the Act, shall be treated as having been incurred as a result of the relevant loss of faculty;

Provided that, subject to proviso (*b*) of subsection (5) of section 12 of the Act (which provides for percentages which are not multiples of ten to be treated as multiples of ten), the degree of disablement which shall be treated as resulting from such relevant loss of faculty shall be that appropriate to one half of the percentage at which the extent of disablement resulting from the relevant loss of faculty would otherwise, and apart from the said proviso (*b*), be assessed.

(6) The provisions of the last foregoing paragraph shall not have effect in respect of a case to which sub-paragraph (*b*) thereof relates unless the assessment in respect of the relevant loss of faculty would be thereby increased.

3. Where the extent of a claimant's disablement is assessed at any of the degrees of disablement severally specified in the first column of the Second Schedule to these regulations, the amount of any disablement gratuity payable shall— Amount of disablement gratuities.

(*a*) if the period taken into account by that assessment is limited by reference to the claimant's life or is not less than seven years, be the amount specified in the second column of that Schedule as appropriate to that degree of disablement;

(*b*) in any other case, be an amount which bears the same proportion to the amount so specified as the period taken into account by the assessment bears to a period of seven years, a fraction of a shilling being, for this purpose, treated as a shilling.

4.—(1) Subject to the following provisions of this regulation, a child under the upper limit of compulsory school age shall be entitled to injury benefit in accordance with the provisions of section 11 of the Act. Injury benefit payable to children of school age.

(2) The weekly rate of injury benefit in the case of any such child shall be as follows, that is to say:—

(*a*) where the relevant employment or (if more than one) the relevant employments was or amounted in the aggregate to, full time employment or substantially full time employment, twenty-two shillings and sixpence;

(*b*) in any other case, seven shillings and sixpence;

and such injury benefit shall not be payable otherwise than to a parent or guardian of the child or a person appointed by the Ministry to receive the benefit on behalf of the child.

(3) In the last foregoing paragraph, the expression "relevant employment" means any employment in which the child was or would but for the relevant injury have been employed during the calendar week in which as the result of the relevant injury he first became incapable of work.

PART III

Increase of Injury and Disablement Benefit

5.—(1) Where in any case a beneficiary is entitled to or has received a disablement gratuity and the period taken into account by the assessment in respect thereof exceeds two years, such beneficiary shall, as respects that gratuity, have the like rights to payments in respect of special hardship as he would have had by way of increase of disablement pension under section 14 of the Act if the disablement gratuity had been a disablement pension payable during the period so taken into account. Payments in respect of special hardship where beneficiary is entitled to a gratuity.

(2) A beneficiary who is entitled as respects a disablement gratuity to payments in respect of special hardship by virtue of the preceding paragraph of this regulation shall, if he makes an application in that behalf at any time before that gratuity or any part thereof has been paid to him, be entitled, subject to the proviso to subsection (7) of section 12 of the Act, to a disablement pension in lieu of such gratuity

for any part of the period taken into account by the assessment during which he may be entitled to an increase of such pension in respect of special hardship under section 14 of the Act, and the weekly rate of such pension shall be determined in accordance with the Third Schedule to these regulations.

(3) Where a pension has been payable under the last foregoing paragraph in lieu of a gratuity for any period and the beneficiary ceases to be entitled to an increase of such pension under the provisions of section 14 of the Act, the amount of that gratuity shall be treated as reduced by the amounts which have been paid to the beneficiary by way of such pension, other than any increase thereof under the said section 14, and, subject to the provisions of these regulations, the balance (if any) shall then be payable accordingly.

Increase of disablement pension for constant attendance.

6. The amount by which the weekly rate of disablement pension may be increased under section 15 of the Act where constant attendance is required by a beneficiary as a result of the relevant loss of faculty shall—

(*a*) where the beneficiary is to a substantial extent dependent on such attendance for the necessities of life (not being a case to which paragraph (*b*) of this regulation relates) and is likely to remain so dependent for a prolonged period, be twenty shillings unless the attendance so required is part time only, in which case the amount shall be such lesser sum as may be reasonable in the circumstances;

(*b*) where the beneficiary is so severely disabled as to be entirely or almost entirely dependent on such attendance for the necessities of life, and is likely to remain so dependent for a prolonged period and the attendance so required is whole time, be forty shillings.

Increase of benefit in respect of a wife, and computation of earnings.

7.—(1) A beneficiary shall not be entitled to an increase of benefit in respect of his wife under section 18 of the Act (which provides for an increase of injury benefit or disablement pension in respect of a beneficiary's wife or some other adult dependant of the beneficiary) for any period during which his wife is engaged in any gainful occupation or occupations from which her weekly earnings, calculated or estimated in accordance with the following provisions of this regulation, exceed twenty shillings.

(2) For the purposes of paragraph (1) of this regulation, the weekly earnings of a wife shall be ascertained in the following manner:—

(*a*) in the case of injury benefit or of disablement pension payable to a beneficiary who is receiving approved hospital treatment and who is not entitled to unemployability supplement—

(i) where the wife is employed in one employment only in respect of which she receives a regular weekly wage of a fixed amount, by reference to that weekly wage; or