Determination of Questions.

THE UNEMPLOYMENT INSURANCE (DETERMINATION OF QUESTIONS) REGULATIONS (NORTHERN IRELAND), 1936, DATED THE 1ST DAY OF SEPTEMBER, 1936, MADE BY THE MINISTRY OF LABOUR FOR NORTHERN IRELAND UNDER THE UNEMPLOYMENT INSURANCE ACTS (NORTHERN IRELAND) 1920 TO 1936.

1936. No. 117.

The Ministry of Labour for Northern Ireland in exercise of the powers conferred on it by section 35 of the Unemployment Insurance Act, 1920, and by section 14 of the Unemployment Insurance (Agriculture) Act (Northern Ireland), 1936, and of all other powers enabling it in that behalf, hereby makes the following Regulations :—

1.—(1) These Regulations may be cited as the Unemployment Insurance (Determination of Questions) Regulations (Northern Ireland), 1936, and shall come into force on the date hereof.

(2) The Interpretation Act, 1921, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) The Unemployment Insurance (Determination of Questions) Regulations, 1920, are hereby revoked, but such revocation shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under those Regulations, or anything done or to be done thereunder.

2.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"The Principal Act" means the Unemployment Insurance Act, 1920 as in force in Northern Ireland ;

"The Ministry" means the Ministry of Labour for Northern Ireland.

(2) Unless the context otherwise requires, any reference in these Regulations to the Principal Act or to the Unemployment Insurance Acts (Northern Ireland), 1920 to 1936, shall be construed as a reference to that Act or to those Acts as amended by any Order or subsequent enactment.

3. Any person or any association of employers or employees or any officer of the Ministry authorised in that behalf or any body charged with the administration of a special or supplementary scheme who desires to obtain the decision of the Ministry on any question to be determined by the Ministry under section 10 of the Principal Act, or under sections 12 or 13 of the Unemployment Insurance (Agriculture) Act (Northern Ireland), 1936, may make an application therefor by sending to the Ministry an application in such one or more of the forms set out in the Schedule hereto as is appropriate, or in some other form or forms substantially to the like effect as the Ministry may from time to time approve.

4.—(1) On receipt of any application purporting to be made under the last preceding Regulation, the Ministry may in any case in which it is of the opinion that the particulars therein contained are incomplete, return the application to the applicant for amendment by the inclusion therein of such further and better particulars as the Ministry considers necessary, and in such a case unless and until the application has been so amended as aforesaid it shall not be deemed to be an application duly made under the last preceding Regulation.

(2) On receipt of an application duly made under these Regulations, the Ministry shall send a copy thereof to any person directly concerned (not being a person by whom the application was made) and may also send a copy to any person who appears to it to be interested.

(3) The Ministry shall send, together with the copy of the application, notice requiring the person to whom the copy is sent to send to the Ministry such particulars as that person may desire. The notice shall specify the time within which the particulars are to be sent, and shall state that if no particulars are received within the time specified the Ministry may give its decision forthwith on the information contained in the application.

5.—(1) The Ministry may, if in its opinion the particulars contained in the application and any particulars sent in reply thereto enable it so to do, give its decision on the facts so appearing.

(2) The Ministry may, if such particulars do not enable it to give a decision, obtain from any of the persons referred to in Regulation 4 hereof, or in such other manner as it may think fit, such further particulars as will enable it to give its decision:

Provided that any statement previously made by any person contrary to the statement contained in his particulars as aforesaid may be sent to that person for any observations thereon that he may desire to make.

And provided also that before giving its decision the Ministry shall communicate such further particulars or such observations to the persons aforesaid so as to afford each of them an opportunity of furnishing such observations thereon as they may desire to make.

6. The Ministry may if it thinks fit appoint a person to hold a hearing of the application, and shall send at least seven days' notice of the date and place fixed for the hearing to the persons who made the application and to all the persons to whom copies of such application have been sent and from whom replies to such applications have been received.

7.—(1) The person who has made the application for the determination, and any person to whom a copy of the application has been sent and from whom particulars in reply have been received, shall be entitled to attend and to be heard at the hearing.

(2) Subject as aforesaid, the procedure at a hearing shall be such as the Ministry or the person before whom a hearing takes place may determine.

8. The Ministry shall give notice of its decision to the person making the application, to the persons directly concerned, and to such other persons as it may think fit, and may publish the decision in such manner as it thinks fit.

9. Where any question is required to be referred to the Ministry for decision under sub-section (7) of section 22 of the Principal Act, that question shall be referred by means of an application made orally or in writing by the Court before which the proceedings in which the question arises are pending, and the provisions of these Regulations shall apply accordingly with such modifications as the circumstances may require.

10. If upon any new facts being brought to the notice of the Ministry, it appears to it that the case is one in which a decision given by it should be reconsidered with a view to a revision of that decision under sub-section (2) of section 10 of the Principal Act, the provisions of these Regulations shall apply with such modifications, if any, as the circumstances may require as though an application had been made.

11. In the event of the Ministry determining to refer the question for decision to the High Court, it shall send notice in writing of its determination so to do to the applicant and to any

person directly concerned, and may, in addition, send notice of the application and of the proposed reference to the High Court to any person or body of persons appearing to the Ministry to be interested :

Provided that if the Ministry is of opinion that the case is one in which a public notice ought to be given, it shall give public notice to that effect in such manner as it thinks fit.

12. A person concerned as a party in any question arising under sections 12 or 13 of the Unemployment Insurance (Agriculture) Act (Northern Ireland), 1936, who desires to apply in accordance with the provisions of Section 14 of that Act to a court of summary jurisdiction for the determination of that question shall, not less than twenty-one days before the date on which the question is to come before the court, give notice to the Ministry and to any other person who may be concerned as a party in the question on the appropriate form set out in the Schedule to these Regulations, and shall seven days before the said date send a copy of the notice to the clerk of the court.

13. Any notice or other document which under these Regulations is to be sent to any person shall be deemed to be duly sent if sent by post to that person at his ordinary or last known address :

Provided that any notice to the Ministry shall be addressed to the Secretary, Ministry of Labour, Stormont, Belfast.

14. If, in any case, an application is made for a decision of the Ministry under the National Health Insurance Acts (Northern Ireland), 1924 to 1935, and the applicant also desires to apply for a decision under the Unemployment Insurance Acts (Northern Ireland), 1920 to 1936, and the question for decision is one that is common to the said Acts, then the requirements of these Regulations shall be deemed to be fulfilled if the provisions of the National Health Insurance (Decision of Questions) Regulations (Northern Ireland), 1924, are duly complied with.

15. Notwithstanding anything in these Regulations, if, in any case, the Ministry is of opinion that a question has arisen that ought to be decided by it under Section 10 of the principal Act or Sections 12 or 13 of the Unemployment Insurance (Agriculture) Act (Northern Ireland), 1936, and that it is not practicable to obtain, in the manner heretofore provided, such particulars as are necessary to enable it to give its decision in that case, then the Ministry may, in such manner as it may think fit, obtain such particulars as may be necessary to enable it so to do :

Provided that no such decision shall be given until the Ministry has sent such particulars to any parties directly concerned and to such other persons as may appear to it to be interested so as to afford such persons or any of them an opportunity of making

upon such particulars such observations as they shall think fit so to make.

Given under the Official Seal of the Ministry of Labour for Northern Ireland this first day of September, nineteen hundred and thirty-six.

(L.S.)

H. Conacher,
Secretary to the Ministry
of Labour for Northern Ireland.

SCHEDULE.

FORM A.

MINISTRY OF LABOUR FOR NORTHERN IRELAND.

UNEMPLOYMENT INSURANCE ACTS (NORTHERN IRELAND), 1920 TO 1936.

(NOTE.—Before filling up this form the applicant should read the Notes and Instructions which are enclosed with this form).

Form of Application for Determination of a Question under Section 10 (1) *of the Unemployment Insurance Act,* 1920.

1. Full Name and Address of Applicant :—

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2. Nature of Applicant's Interest in Determination of Question (whether interested as Employer of Employee or otherwise) :—

3. Outline of Question raised :—
(1) Name and Address of Employer :—

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Business or Occupation.....

(2) Name and address of Employee :—

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(3) Age of Employee (date of birth, if under 16 years of age).....

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(4) Particulars of Employee's Contract with Employer :—

(i)	(*a*) Method of obtaining employment.	(*a*)
	(*b*) By whom engaged.	(*b*)

(ii) Date when employment commenced.	
(iii) Whether employment is still continuing. If not, date when employment ended.	
(iv) Whether employment has been continuous. If not, give separate periods of employment.	
(v) (*a*) Who has the right to dismiss ?	(*a*)
(*b*) In what circumstances ?	(*b*)
(*c*) With what notice (if any) ?	(*c*)
(vi) Whether employment is a whole time or part time employment. (If part time, give particulars).	
(vii) Whether personal service required.	
(viii) (*a*) Amount of remuneration, and	(*a*)
(*b*) Whether a fixed salary or by time, by piece, or commission or otherwise.	(*b*)
(ix) By whom remuneration paid.	
(x) Nature of duties to be performed, and where performed.	
(xi) (*a*) Whether the employer, or some person on his behalf, has the right to exercise control as to the method of performance of duties by the employee.	(*a*)
(*b*) In what manner such control is exercised.	(*b*)
(*c*) By whom orders and directions are, or may be, given.	(*c*)

(xii) (*a*) Are Health Insurance contributions paid ?	(*a*)
(*b*) Has any decision been obtained from the Ministry on this question as regards Health Insurance ?	(*b*)
(xiii) Any further information that can be given, including copies of the contract of employment (if in writing), and of any letters or documents bearing on above questions.	

4. Names and Addresses of other Persons directly interested in settlement of Question :—

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5. Reasons for considering that the application of the Act in the particular case is open to question :—

DECLARATION.

I declare that the above particulars given with a view to obtaining the decision of the Ministry of Labour for Northern Ireland, under Section 10 (1) of the Unemployment Insurance Act, 1920, of the question whether (set out as briefly and as clearly as possible the question raised)

are to the best of my knowledge and belief correct.

Signed (Name).....

(Address).....

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(Date).....

FORM B.

UNEMPLOYMENT INSURANCE ACTS (NORTHERN IRELAND), 1920 TO 1936.

Form of Application Referring to Demarcation of Industries.

APPLICATION TO THE MINISTRY OF LABOUR FOR NORTHERN IRELAND FOR DETERMINATION OF A QUESTION UNDER SECTION 10 (1) (*b*) OF THE UNEMPLOYMENT INSURANCE ACT, 1920, OR UNDER SECTION 12 OR SECTION 13 OF THE UNEMPLOYMENT INSURANCE (AGRICULTURE) ACT (NORTHERN IRELAND), 1936.

I (the employer of the person) (the person) the particulars of whose employment are specified hereunder desire to obtain the decision of the Ministry of Labour for Northern Ireland on the question whether (that person is/was) (I am/was)

(*a*) a person to whom the Insurance Industry Special Scheme applies;
(*b*) a person employed in agriculture;
(*c*) a person not insured in respect of employment in agriculture by virtue of section 13 of the Unemployment Insurance (Agriculture) Act (Northern Ireland), 1936.

PARTICULARS :—

1. Full name and address of applicant.....

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2. Name and address of employer.....

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3. Name and address of employed person.....

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4. Place or places at which employment took place.....

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5. Occupation of employed person and full description of work performed

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6, Name of the establishment or undertaking or department in which the employed person is engaged. (This need be completed only where the question relates to the Insurance Industry Special Scheme).....

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7. Particulars of any other relevant facts or contentions.....

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8. Names and addresses of other Persons directly interested in settlement of question.....

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DECLARATION.

I declare that the above particulars are, to the best of my knowledge and belief, correct.

Name.....
Address.....
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Date.....

FORM C.

UNEMPLOYMENT INSURANCE ACTS (NORTHERN IRELAND), 1920 TO 1936.

NOTICE OF INTENTION TO APPLY TO A COURT OF SUMMARY JURISDICTION FOR THE DETERMINATION OF A QUESTION RELATING TO EMPLOYMENT IN AGRICULTURE.

I (the employer of a person) (the person), the particulars of whose employment are specified hereunder, hereby give notice that I intend to apply to the Court of Petty Sessions sitting at.....on the .....day of.....19..... at the hour of.....o'clock in the.....noon (being at least 21 days from the date of this notice) for determination of the question whether (here set out as briefly and as clearly as possible the question raised).....
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PARTICULARS :—

1. Name and address of applicant.....
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2. Name, address and business of employer.....
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3. Name and address of employed person.....
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4. Place or places at which employment took place.....
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5. Period of employment.....
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6. Occupation of employed person and full description of work performed
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7. Particulars of any other facts or contentions on which the applicant proposes to rely.....
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8. Names and addresses of Persons concerned as a party in the question or directly interested in its settlement to whom notice is also being sent :—
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Signed.....
Address.....
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Date.....

To :—