1969. No. 8 [C]

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

Benefit

REGULATIONS, DATED 17TH JANUARY 1969, MADE BY THE INDUSTRIAL INJURIES JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACTS (NORTHERN IRELAND) 1966.

The Industrial Injuries Joint Authority, in exercise of powers conferred by the provisions set out in column (1) of Schedule 1, and the Ministry of Health and Social Services, in exercise of powers conferred by the provisions set out in column (2) of that Schedule, 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) 1969 and shall come into operation on 18th January 1969.

(2) In these regulations—

"the Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**a**);

"the National Insurance Act" means the National Insurance Act (Northern Ireland) 1966(**b**);

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Compensation Acts" means the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943(**c**), or the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927(**d**), or the enactments repealed by the Workmen's Compensation Act 1906(**e**);

"determining authority" means, as the case may require, an insurance officer appointed under section 67 of the National Insurance Act or a local tribunal constituted under section 76 of that Act or the Commissioner.

PART II

INJURY AND DISABLEMENT BENEFIT

Further definition of the principles of assessment of disablement and prescribed degrees of disablement

2.—(1) Schedule 4 (general principles relating to the assessment of the extent of disablement) to the Act shall have effect subject to the provisions of this regulation.

(a) 1966. c. 9 (N.I.). (b) 1966. c. 6 (N.I.).
(c) 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. 6; 1943. c. 13.
(d) 17 & 18 Geo. 5. c. 16 (N.I.). (e) 6 Edw. 7. c. 58.

(2) Where a claimant suffers as the result of the relevant accident from some loss of physical or mental faculty any assessment of the extent of the resulting disablement, made by reference to the disabilities which are to be treated as having been incurred as a result of the relevant loss of faculty in accordance with the provisions of paragraph 1 of Schedule 4 to the Act shall, subject to the provisions of paragraph (3), not take account of any such disablement to the extent that the claimant either—

(*a*) would have been subject thereto as the result of a congenital defect or of an injury or disease received or contracted before the relevant accident whether or not that accident had occurred; or

(*b*) would not have been subject thereto but for some injury or disease received or contracted after, and not directly attributable to, that accident.

(3) In any case where the extent of disablement resulting from the relevant loss of faculty would, but for the provisions of this paragraph, be assessed at not less than 20 per cent., any disability to which the claimant is subject as a result both of the relevant injury and of some injury or disease received or contracted after the relevant accident shall be treated as having been incurred as a result of the relevant loss of faculty and the assessment shall take account of any such disablement to the extent to which the claimant would not have been subject thereto if the relevant accident had never occurred:

Provided that any such disablement attributable to an accident and a disease or to two or more accidents or diseases (as the case may be) against which the claimant is insured under the Act shall only be treated, by virtue of this paragraph, as having been incurred as a result of the loss of faculty resulting from one such accident or disease, being that one which occurred or developed last in point of time.

(4) Where the sole injury which a claimant suffers as a result of the relevant accident is one specified in column (1) of Schedule 2, whether or not such injury includes one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be treated, for the purposes of section 12 (disablement benefit) of, and Schedule 4 to, the Act as resulting in the degree of disablement set against such injury in column (2) of the said Schedule 2 subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where, having regard to which disabilities are and which disabilities are not to be treated in accordance with the provisions of Schedule 4 to the Act as having been incurred as a result of the relevant loss of faculty, and having regard to paragraphs (1) to (3) of this regulation, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant injury.

(5) For the purpose of assessing, in accordance with the provisions of Schedule 4 to the Act, the extent of disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (4) of this regulation, the medical appeal tribunal, the medical board or the single medical practitioner acting instead of a medical board (as the case may be) may have such regard as may be appropriate to the prescribed degrees of disablement set against the injuries specified in the said Schedule 2.

(6) (*a*) Where in any case an assessment of the extent of disablement has been made in accordance with the provisions of this regulation or with the corresponding provisions of regulations in force before 1st August 1968 and there has been an amendment to any relevant item in the said

Schedule 2 since the date of that assessment, the insurance officer shall either

(i) review that assessment and make such adjustment of it as may be necessary to give effect to the said amendment from the date of the coming into force of the said amendment, or

(ii) refer the question to a medical board for determination in accordance with the provisions of sub-paragraph (*b*);

(*b*) a medical board shall, on a reference by the insurance officer under sub-paragraph (*a*), review the assessment so as to give effect to the said amendment from the date of the coming into force of the said amendment, if they are satisfied that it is necessary to do so and in so doing shall proceed upon the facts included in the record of the decision of the medical board or medical appeal tribunal which made that assessment;

(*c*) a beneficiary who is dissatisfied with the decision of the insurance officer under sub-paragraph (*a*) may appeal against that decision to a medical board by giving notice in writing to the Ministry within 10 days after he has been notified of that decision or such longer period as the Ministry may in any case allow and the insurance officer shall then refer the question to a medical board which shall deal with it as if it were a reference under sub-paragraph (*a*):

Provided that no assessment made on review by virtue of the provisions of this paragraph shall be lower than the assessment which has been so reviewed.

Amount of disablement gratuities

3. Where the extent of a claimant's disablement is assessed at any of the degrees of disablement severally specified in column (1) of Schedule 3, the amount of any disablement gratuity payable shall—

(*a*) if the period taken into account by that assessment is limited by reference to the claimant's life or is not less than 7 years, be the amount specified in column (2) 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 7 years, a fraction of a shilling being, for this purpose, treated as a shilling.

Injury benefit payable to persons of school age

4.—(1) Subject to the provisions of paragraphs (2) and (3), a person 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.

(2) The weekly rate of injury benefit in the case of any such person (hereafter in this regulation referred to as "the beneficiary") shall be—

(*a*) £4 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;

(*b*) £1 8s. in any other case;

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

(3) In paragraph (2), the expression "relevant employment" means any employment in which the beneficiary 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

Circumstances in which for the purposes of section 14 of the Act a beneficiary may be treated as being incapable of following an occupation or employment notwithstanding that he has worked thereat

5.—(1) For the purposes of section 14 of the Act (increase of disablement pension in respect of special hardship), in determining whether a beneficiary has at all times since the end of the injury benefit period been incapable of following his regular occupation or employment of an equivalent standard which is suitable in his case, and in determining that question only, the fact that since the end of the injury benefit period such beneficiary had worked at that occupation or any such employment (as the case may be)—

(*a*) for the purpose of rehabilitation or training or of ascertaining whether he had recovered from the effects of the relevant injury; or

(*b*) before obtaining surgical treatment for the effects of the said injury;

shall be disregarded in respect of the periods specified in paragraph (2).

(2) The periods during which the beneficiary worked at his regular occupation or at employment of equivalent standard, which shall be disregarded in accordance with the provisions of paragraph (1), shall be—

(*a*) in any case to which paragraph (1)(*a*) applies—

(i) any period during which he worked thereat for any of the said purposes with the approval of the Ministry or on the advice of a medical practitioner; and

(ii) any other period or periods during which he worked thereat for any of the said purposes and which did not exceed 6 months in the aggregate; and

(*b*) in any case to which paragraph (1)(*b*) applies—

(i) any period during which he worked thereat and throughout which it is shown that having obtained the advice of a medical practitioner to submit himself to such surgical treatment he was waiting to undergo the said treatment in accordance therewith; and

(ii) any other period during which he worked thereat and throughout which it is shown that he was in process of obtaining such advice.

Payments in respect of special hardship where beneficiary is entitled to a gratuity

6.—(1) Where in any case a beneficiary is entitled to or has received a disablement gratuity, 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 taken into account by the assessment.

(2) A beneficiary who is entitled as respects a disablement gratuity to payments in respect of special hardship by virtue of paragraph (1) 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 section 12(6) 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 Schedule 4 to these regulations.

(3) Where a pension has been payable under paragraph (2) 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

7. The amount by which the weekly rate of a 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 (not being a case to which paragraph (*b*) relates) is to a substantial extent dependent on such attendance for the necessities of life and is likely to remain so dependent for a prolonged period, be £3 (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) or, where the extent of such attendance required is greater by reason of the beneficiary's exceptionally severe disablement, a sum not exceeding £4 10s.;

(*b*) where the beneficiary is so exceptionally 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 £6.

Weekly value of gratuity for purposes of reduction of increase of disablement benefit during hospital treatment

8. For the purpose of reducing the weekly rate of a disablement pension payable by virtue of section 16 of the Act to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly value of the gratuity shall be the weekly rate of disablement pension which would be payable to that person in lieu thereof in accordance with regulation 6(2) if that regulation applied in his case.

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

9.—(1) Subject to the provisions of paragraphs (2) and (3) a beneficiary shall not be entitled to an increase of benefit in respect of his wife under section 18 of the Act (increase of benefit in respect of adult dependants) 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 provisions of regulations 3, 4 and 5 of the National Insurance (Computation of Earnings) Regulations (Northern Ireland) 1967(f) as if the manner and basis of the calculation or estimate were for the purposes of the National Insurance Act and of any regulations made thereunder, exceed the amount of the increase specified in the said section 18.

(2) Regulation 4(2) of the said regulations (disregard of Christmas bonus) shall apply for the purposes of every calculation or estimate of earnings for the purposes of this regulation.

(3) In the case of a disablement pension payable to a beneficiary who is entitled to an unemployability supplement, the week by reference to which earnings by the wife shall be calculated shall be the calendar week ending last before any week for which the beneficiary is entitled to a disablement pension.

(f) S.R. & O. (N.I.) 1967, No. 130.

Increase of benefit for dependent relatives and further conditions applicable

10.—(1) For the purposes of section 18(1)(*c*) of the Act (increase of benefit in respect of a relative of a beneficiary subject to such further conditions as may be prescribed) the relatives shall be the persons who bear any such relationship to the beneficiary as is specified in Schedule 5, and shall include any person who is any such relative by adoption and any person who would be such a relative if some person born illegitimate had been born legitimate, but shall not include any person who is a child.

(2) The following further conditions shall apply in relation to any such relative as is mentioned in paragraph (1):

(*a*) Where such relative is a woman, a beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of her for any period during which she is engaged in any gainful occupation or occupations from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed by regulation 9 for the purposes of the said section 18 in relation to the earnings of a wife) exceed the amount of the increase specified in the said section 18.

(*b*) Where any such relative is a man, an increase shall not be payable in respect of him for any period other than a period during which he is incapable of self-support.

(*c*) Where any such relative is a married woman, an increase shall not be payable in respect of her for any period other than a period during which—

(i) she is not residing with and is unable to obtain any financial assistance from her husband; or

(ii) her husband is incapable of self-support and is not entitled to an increase of benefit in respect of her under the Act or the National Insurance Act.

Increase of benefit for female person having care of child

11. For the purposes of section 18(1)(*d*) of the Act (increase of benefit in respect of a female person, not being a child, who has the care of a child or children of the beneficiary's family), the following further conditions shall apply in relation to any such female person:

(1) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person unless—

(*a*) she is residing with the beneficiary; or

(*b*) she is employed by the beneficiary in an employment from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed by regulation 9 for the purposes of the said section 18 in relation to the earnings of a wife) are not less than the amount mentioned in the said section 18, and was so employed by him before the date of the relevant accident, subject to the qualification that the condition of employment before that date shall not apply in a case where the necessity for her employment first arose thereafter; or

(*c*) the beneficiary is contributing to her maintenance at a weekly rate of not less than the amount mentioned in the said section 18.

(2) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person for any period during which that female person (not being a person who is employed by, but is not residing with, the beneficiary) is engaged in any gainful

occupation or occupations (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed as aforesaid for the purposes of the said section 18) exceed the amount of the increase specified in the said section 18.

(3) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person unless the beneficiary is entitled to an increase of benefit in respect of a child of his family or a child treated as such for the purposes of section 17 of the Act (increase of benefit in respect of children) or would be so entitled but for the provisions of regulations in Part VII relating to overlapping benefits.

Contribution to maintenance of adult dependant

12. For the purposes of section 18(1)(*a*) of the Act (increase of benefit in respect of a wife) or of regulation 11(1)(*c*), a beneficiary shall not be deemed to satisfy the requirement contained in the said section or regulation that he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than the amount specified in section 18 of the Act, unless when in employment before the date of the relevant accident (except in a case where the dependency did not arise until after that date), he contributed to her maintenance at a weekly rate of not less than that amount.

Children treated as included in family for increase of certain benefits

13. For the purposes of section 17(3) of the Act (treating certain children as included in a man's family for the purpose of an increase of injury benefit or disablement pension) the prescribed rate shall be a rate equal to the amount for the time being specified in paragraph 7(*c*) of Schedule 3 to the Act, being the amount of the increase for an additional child of the beneficiary's family after the second.

Contribution towards cost of providing for child

14.—(1) Where, apart from sections 17(4) and 21(4) of the Act, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provisions as, a child of that person's family, payment of an increase of any amount under section 17 or 21 of the Act for any period and neither of the conditions set out in the said section 17(4), that is to say—

(*a*) that the child in question is living with that person; or

(*b*) that contributions to the cost of providing for the child in question are being made at a weekly rate not less than that required by that section,

is satisfied, that person shall nevertheless for the purposes of the said sections 17(4) and 21(4) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by the said section 17(4) if—

(i) he gives an undertaking in writing to make such contributions; and

(ii) on receiving the amount of the allowance or increase in question, he in fact makes such contributions;

so however, that if in respect of any period he fails to make the contributions which he has undertaken to make in accordance with this regulation, the decision awarding the allowance or increase in question for that period in respect of that child shall be revised.

(2) Where for the purposes of section 17(1) of the Act, a person has a family which includes children, one or more of whom is, or are, treated as included in his family only by virtue of the provisions of section 17(3) of the Act (which child or children are hereafter in this paragraph referred to as a "treated child" or "treated children"), and there is, or are, also another child or other children living with that person who is, or are, included or treated as included in his family otherwise than by virtue of the said section 17(3) (which child or children are hereafter in this paragraph referred to as the "said other child or children"), that person shall in relation to an increase of injury benefit or disablement pension in respect of a treated child be deemed to be contributing to the cost of providing for that child for the purposes of section 17(4)(*b*) of the Act at a weekly rate not less than that required in the case of that child by that section if he contributes to the cost of providing for that child at a rate not less than the rate which would be appropriate in the circumstances of the case if the said other child or children were older than the treated child or (if there is more than one treated child) any of the treated children.

Allocation of contributions for wife or children

15.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say, the maintenance of his wife and the cost of providing for one or more children, being children to whom this regulation refers, shall be treated for the purposes of sections 17(3) and (4) and 18(1) of the Act as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) The children to whom this regulation refers are any children who, in the period for which the sum in question is paid by the person, either are included in that person's family or, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act (Northern Ireland) 1966(**g**) as so included, or would have been, or could have been treated under that paragraph as, so included had the person contributed to the cost of providing for the child at a sufficient weekly rate.

(3) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the child or children is or are included in the family of the wife or, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act (Northern Ireland) 1966 as so included.

Determination of degree of disablement for constant attendance allowance

16.—(1) For the purpose of determining whether a person is entitled to an increase by way of constant attendance allowance under section 15 of the Act or to a corresponding increase by virtue of section 76(2)(*b*) of the Act of any other benefit the Ministry shall, in a case where that person is subject to disabilities in respect of which payments of two or more of the descriptions set out in paragraph (2) fall to be made, determine the extent of that person's

(**g**) 1966. c. 8 (N.I.).

disablement by taking into account all such disabilities to which that person is subject.

(2) The payments which may be taken into account are those of the following descriptions:

(*a*) payments by way of disablement pension under the Act;

(*b*) weekly payments to which that person is or has been at any time after 4th July 1948 entitled in respect of injury or disease being payments by way of compensation under the Workmen's Compensation Acts or under any contracting out scheme duly certified thereunder;

(*c*) payments by way of benefit under the Industrial Diseases (Benefit) Acts 1951 and 1954(**h**);

(*d*) payments of personal benefit by way of disablement pension or gratuity under any Personal Injuries Scheme or Service Pensions Instrument or 1914-1918 War Injuries Scheme.

(3) In paragraph (2)(*d*) the expressions "personal benefit", "disablement pension", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the meanings which are assigned to them by regulation 36(1) for the purposes of Part VII.

PART IV

ADJUSTMENT OF BENEFIT FOR SUCCESSIVE ACCIDENTS

Adjustment of benefit for successive accidents where a disablement gratuity is payable

17.—(1) In a case where—

(*a*) a person who is entitled, as a result of an accident, to a disablement pension (hereafter in this paragraph referred to as an "existing pension") which is payable in respect of an assessment for a period which is limited by reference to that person's life, becomes as a result of any other accident subject to a loss of faculty in respect of which a disablement gratuity would, but for this regulation, be payable; and

(*b*) the aggregate amount of the assessment in respect of the existing pension and of the assessment in respect of which such disablement gratuity would be payable would, if it were the amount of the assessment of the extent of the disablement resulting from any one accident suffered by that person, have entitled him to receive a disablement pension at a higher rate than the rate of such existing pension;

then, if, at any time before his claim for disablement benefit is determined, he so elects, that person shall be entitled to a disablement pension in lieu of the said disablement gratuity at a rate equal to the difference between the said higher rate and the rate of the existing pension.

(2) In a case in which a person who is entitled as a result of any accident to a disablement pension would but for the provisions of this paragraph become entitled in respect of any other accident to a disablement gratuity (not being a case in which he is entitled to a disablement pension in lieu of such gratuity)—

(*a*) if the assessment in respect of which such pension is payable to him amounts to not less than 100 per cent., such person shall not be entitled to receive any disablement gratuity in respect of such other accident;

(**h**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4, 2 & 3 Eliz. 2. c. 16.

(*b*) in any other case, such person shall not be entitled to receive, by way of a disablement gratuity in respect of such other accident, an amount exceeding that which would be payable in respect of an assessment equal to the difference between 100 per cent. and the percentage of the assessment in respect of which such pension is payable to him.

(3) For the respective purposes of paragraphs (1) and (2)—

(*a*) references to an existing pension within the meaning of paragraph (1) and to any disablement pension in paragraph (2) respectively shall include references to all such pensions which may be payable to the person concerned, and references to the amount of the assessment in respect of which, and the rate at which, any such pension is payable shall include references to the aggregate amount of the assessments in respect of which or the aggregate of the rates at which all such pensions are payable as aforesaid;

(*b*) the extent by which an assessment is increased by virtue of the provisions of section 16 of the Act (increase of disablement benefit during hospital treatment) shall be disregarded.

Adjustment of increase of benefit in respect of successive accidents

18.—(1) Where a person who is entitled to a disablement pension in respect of any accident suffered by him—

(*a*) has received, or is entitled to, a disablement gratuity in respect of any other accident; and

(*b*) as a result of the loss of faculty in respect of which he has received or is entitled to that gratuity, is incapable of work and is likely to remain permanently so incapable;

the provisions of section 13 of the Act (increase of disablement pension by way of unemployability supplement) shall apply as if that loss of faculty resulted from the accident in respect of which such disablement pension is payable.

(2) Where a person—

(*a*) would be entitled to a disablement pension in respect of any accident but for the provisions of section 29(1)(*a*) of the Act (limitations on the aggregate weekly rates of benefit payable for the same period in respect of successive accidents); and

(*b*) by reason only of those provisions is unable to satisfy the conditions for the receipt of an increase of that pension by way of unemployability supplement under section 13 of the Act;

the provisions of the said section 13 shall apply as if such disablement pension were payable to that beneficiary.

(3) At any time at which the sum total of the several assessments in respect of two or more accidents suffered by any person amounts to not less than 100 per cent. during the continuance of the periods respectively taken into account thereby, the weekly rate of any disablement pension which is payable to him may be increased in accordance with the provisions of section 15 of the Act if he requires constant attendance as a result of the loss of faculty resulting from any one or more of such accidents, whether or not that pension is payable in respect of an assessment of 100 per cent. or in respect of that loss of faculty.

(4) A beneficiary who has suffered two or more accidents shall not be entitled at any time to more than one of each of the following increases of benefit, that is to say—

(*a*) by way of unemployability supplement, under section 13 of the Act;

(*b*) in respect of the need of constant attendance, under section 15 of the Act;

(*c*) in respect of a child, under section 17 of the Act;

(*d*) in respect of an adult dependant, under section 18 of the Act.

PART V

DEATH BENEFIT

Widow's pension

19. Section 19 of the Act (death benefit for widows) shall have effect—

(*a*) as if the reference in section 19(1) (conditions of entitlement to such benefit) to periodical payments of not less than the prescribed amount were a reference to periodical payments which would amount to an average weekly rate of not less than 5 shillings;

(*b*) during the 26 weeks next following the death of the deceased, as if a reference to the sum of £6 7s. were substituted for the references in section 19(3) (weekly rates of pensions payable to widows) to the amount specified in paragraph 9(*a*) of Schedule 3 to the Act and the sum of one pound ten shillings respectively.

Widows to be treated as entitled to a pension for the purposes of right to a remarriage gratuity

20. A widow who would be entitled to a pension under section 19 of the Act immediately before her remarriage but for the operation of subsection (2) of that section (which provides among other things that a pension under section 19 of the Act shall not be payable to a woman while she is cohabiting with a man not her husband) shall be treated as if she were entitled thereto for the purposes of a right to a gratuity under the said section 19 on her remarriage.

Death benefit for relatives

21. For the purposes of section 23 of the Act (death benefit for such relatives of a deceased insured person as may be prescribed), the relatives shall be the persons who bear any such relationship to the deceased as is specified in Schedule 5 to these regulations (otherwise than as a parent within the meaning of section 22 of the Act (death benefit for parents)) and shall include any person who is such a relative by adoption and any person who would be such a relative if some person born illegitimate had been born legitimate.

Death benefit under section 23 of the Act for a posthumous son or daughter

22. The provisions of section 23 of the Act shall apply to a posthumous son or daughter (whether legitimate or illegitimate) of a deceased man as if—

(*a*) for the conditions specified in subsection (1) there were substituted the condition that the mother of such son or daughter was at the deceased's death being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained; and

(*b*) the conditions specified in paragraphs (*a*) and (*b*) of subsection (2), and every reference to death benefit by way of a gratuity or an allowance and to the several conditions for the receipt of such benefit, were omitted; and

(c) in subsection (6)—

(i) the references to a relative who was a child at the deceased's death were references to a relative who is a posthumous son or daughter of the deceased; and

(ii) for paragraph (b) there were substituted the following paragraph:

"(b) unless such relative is on ceasing to be a child permanently incapable of self-support by reason of some physical or mental infirmity which is congenital in origin;".

Calculation of the amount of parent's or relative's gratuity

23. For the purposes of section 34(5) of the Act (amount of death benefit payable by way of a gratuity to a beneficiary as a parent or relative, other than a beneficiary who, at the deceased's death, was, or would but for the relevant accident have been, wholly maintained by the deceased), the maximum amount of any such gratuity payable to a beneficiary as a parent within the meaning of section 22 of the Act or as a relative prescribed for the purposes of section 23 of the Act, shall be determined in accordance with the provisions of Schedule 6.

Application of limits imposed on death gratuities by Schedule 5 to the Act

24. In any case in which, but for the provisions of paragraph 6 of Schedule 5 to the Act (provisions limiting the amount of death benefit by way of gratuities payable in respect of any death), the aggregate amount of death benefit which would be payable to two or more persons by way of parents' or relatives' gratuities, as the case may be, would exceed the total amount respectively specified in relation to such gratuities in sub-paragraphs (1) and (2) of the said paragraph 6, being—

(a) £78, in relation to parents' gratuities; and

(b) £52 or £104 (as the case may be) in relation to relatives' gratuities;

the amount payable to any person by way of a parent's or a relative's gratuity (as the case may be) shall, subject to the provisions of the Act limiting the amount so payable to any one person, be determined in accordance with the provisions of Schedule 7.

Death within prescribed period

25. For the purposes of Schedule 5 to the Act (provisions limiting benefit payable in respect of any death) and by virtue of the provisions of paragraph 8 of that Schedule, a person entitled, or who may become entitled, to any benefit mentioned in that Schedule in respect of any death shall be disregarded if he dies within 6 months after the deceased's death without being awarded that benefit.

Priority of title to allowance or allowances under section 21 of the Act

26. Where in respect of the same death each of two or more persons satisfies the conditions of section 21 of the Act for the receipt of—

(a) an allowance in respect of the same child; or

(b) an allowance at the rate applicable to an only, elder or eldest child in respect of different children; or

(c) an allowance at the rate applicable to a second child in respect of different children;

the person entitled to the allowance, or, as the case may be, the allowance at the rate applicable to an only, elder or eldest child or the allowance at the

rate applicable to a second child, shall as between such persons be determined, subject to the provisions of paragraph 1(*c*) of Schedule 5 to the Act (priority of title to such an allowance of a person who is entitled to death benefit as the widow or widower of the deceased), in accordance with the order of priority specified in Schedule 8.

PART VI

MISCELLANEOUS PROVISIONS

Provisions relating to free and continuous medical treatment as an in-patient

27.—(1) For the purposes of section 15 of the Act (increase of disablement pension where constant attendance needed) a person who, for the purpose of receiving medical treatment as an in-patient, avails himself of the hospital services provided under Part III of the Health Services Act (Northern Ireland) 1948(**i**), shall only be treated as not receiving such treatment free of charge if he is paying or has paid charges in respect thereof which are designed to cover the whole cost of the accommodation or services provided for that person as part of the said hospital services.

(2) A person who receives medical treatment as an in-patient for two or more distinct periods separated by an interval of less than a week in each case shall be treated as receiving such treatment continuously from the beginning of the first period until the end of the last for all the purposes of Part II of the Act (general conditions of benefit) other than the purpose of an increase under the said section 15 for a person in receipt of a disablement pension the degree of whose disablement has, irrespective of his having become such an in-patient, been assessed at 100 per cent., in respect of any day during which he is absent from the hospital or similar institution and his absence therefrom is certified by the appropriate authority thereof to be beneficial for him.

Provisions as to maintenance for the purposes of increase of benefit in respect of dependants

28.—(1) For the purposes of the provisions of section 18 of the Act (increase of benefit in respect of adult dependants) and subject to paragraphs (3) and (4) of this regulation, a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(*a*) when entitled to benefit to which section 18 applies, contributes towards the maintenance of that person an amount not less than the amount of the increase of benefit received in respect of that person; and

(*b*) when in employment before the date of the relevant accident (except in a case where the dependency did not arise until after that date), contributed more than one half of the actual cost of the maintenance of that person.

(2) For the purposes of section 17(2) of the Act (circumstances in which a child of the family of a woman residing with a beneficiary shall be treated as a child of that beneficiary's family) and subject to paragraphs (3) and (4), a beneficiary shall not be deemed to have been wholly or mainly maintaining such a child throughout the 6 months ending with the date of the relevant accident unless the beneficiary, when in employment during that period, contributed more than one half of the actual cost of maintenance of that child.

(**i**) 1948. c. 3.

(3) In a case where—

(*a*) a person is partly maintained by each of two or more other persons (being persons entitled to benefit either under the Act or the National Insurance Act of whom at least one is entitled to benefit under the Act) each of whom would be entitled to an increase of benefit under the relevant Act in respect of that person if he were wholly or mainly maintaining that person; and

(*b*) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of them, have been sufficient to satisfy the foregoing requirements of this regulation;

that person shall be deemed to be wholly or mainly maintained by that one of the said other persons who—

(i) ordinarily made the larger or largest contributions to the maintenance of that person; or

(ii) in a case where no person ordinarily made the larger or largest contributions as aforesaid, is the elder or eldest of the said other persons; or

(iii) in any case, is a person designated in that behalf by a notice in writing signed by a majority of the said other persons and addressed to the Ministry;

if and so long as that one of the said other persons is entitled to benefit to which section 17 or 18 of the Act applies and, in a case to which the said section 18 applies, satisfies the condition contained in paragraph (1)(*a*).

(4) A notice and the designation contained therein given under paragraph (3) may be revoked at any time by a fresh notice signed by a majority of such persons and another one of their number may be designated thereby and accordingly the provisions of that paragraph shall apply to the one so last designated.

Provisions as to maintenance for purposes of death benefit

29. For the purposes of the provisions of Part II of the Act which relate to death benefit, a deceased person shall not be deemed to have been, at his death or for any period before his death—

(1) wholly maintaining another person unless he normally contributed the whole of the actual cost of that other person's maintenance;

(2) mainly maintaining another person unless he normally contributed more than one half of the actual cost of that other person's maintenance;

(3) to a substantial extent maintaining another person unless he normally contributed not less than an average weekly amount of 5 shillings towards the cost of that other person's maintenance:

Provided that—

(*a*) in the case of a posthumous son or daughter of the deceased, such son or daughter shall be deemed to have been wholly maintained by the deceased at his death if the condition specified in regulation 22(*a*) is satisfied in his case;

(*b*) where—

(i) a person was partly maintained by each of two or more insured persons of whom the first mentioned person was a parent within the meaning of section 22 of the Act or a relative prescribed for the purposes of section 23 of the Act, as the case may be; and

(ii) the insured persons have died as the result of accidents against which they were insured under the Act;

the parent or relative may by notice in writing designate one of those insured persons and shall thereafter be treated as having received from the person so designated contributions to his maintenance equal to the aggregate amount which the said insured persons were together contributing before the accidents happened, and as having received nothing from the others.

Exception from disqualification under section 31(1) *of the Act*

30. Regulations 31 and 32 shall have effect to except benefit from the operation of section 31(1) of the Act which provides that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is absent from Northern Ireland or is undergoing imprisonment or detention in legal custody.

Exception for period of absence abroad

31.—(1) A person shall not be disqualified for receiving injury benefit—

(*a*) for any period during which he is temporarily absent from Northern Ireland being in the Republic of Ireland, the Isle of Man or the Channel Islands; or

(*b*) for any period during which that person is temporarily absent from Northern Ireland (not being in the Republic of Ireland, the Isle of Man or the Channel Islands) for the purpose of undergoing medical treatment which is appropriate to the relevant injury and which is approved by the Ministry.

(2) A person shall not be disqualified for receiving—

(*a*) disablement benefit (other than any increase thereof) for any period during which he is absent from Northern Ireland;

(*b*) an increase of disablement pension by way of unemployability supplement under section 13 or 76 of the Act, or in respect of the need of constant attendance under section 15 or 76 of the Act or in respect of exceptionally severe disablement under section 6 of the National Insurance (No. 2) Act (Northern Ireland) 1966(**j**) by reason of being temporarily absent from Northern Ireland during the period of 6 months from the date on which such absence commences or during such longer period as the Ministry may allow;

(*c*) an increase of disablement pension in respect of a spouse under section 18 or 76 of the Act by reason either of the spouse or that person being absent from Northern Ireland, provided that person is entitled to receive an unemployability supplement and is residing with the spouse;

(*d*) an increase of disablement pension in respect of a child or children under section 17 or 76 of the Act by reason of that person being absent from Northern Ireland, provided that person is entitled to receive an unemployability supplement.

(3) A person shall not be disqualified for receiving death benefit for any period during which he is absent from Northern Ireland.

(4) A husband or wife shall not be disqualified for receiving an increase of injury benefit in respect of his or her spouse by reason of the spouse being absent from Northern Ireland, provided the spouse is residing with the husband or wife, as the case may be.

(**j**) 1966. c. 16 (**N.I.**).

Exception from disqualification for imprisonment, etc.

32.—(1) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought, or intended to be brought, against him in criminal proceedings, or pursuant to any sentence or order for detention made by a court in such proceedings, unless, in relation to him, a penalty as defined in paragraph (4) is imposed at the conclusion of those proceedings.

(2) A person shall not be disqualified for receiving disablement benefit, other than any increase thereof, for any period during which he is undergoing imprisonment or detention in legal custody:

Provided that the amount payable by virtue of this paragraph by way of any disablement pension or pensions in respect of any period, other than a period in respect of which that person is excepted from disqualification by virtue of the provisions of paragraph (3), during which that person is and has continuously been undergoing imprisonment or detention in legal custody shall not exceed in the aggregate the amount of £100 or the total amount payable by way of such pension or all such pensions for a period of one year, whichever is the less.

(3) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Northern Ireland as a person suffering from mental disorder unless—

(*a*) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, a Borstal institution, a remand home or a training school; and

(*b*) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order:

Provided that where, as respects a person in relation to whom each of the conditions specified in sub-paragraphs (*a*) and (*b*) is satisfied, a certificate, given by or on behalf of the Prison Governor and furnished to the Ministry, shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

(4) For the purposes of paragraph (1), "penalty" means a sentence of imprisonment, corrective training, preventive detention, Borstal training, or detention under section 55 of the Children and Young Persons Act (Northern Ireland) 1950(**k**), or an order for detention in a remand home or a training school, but does not include any sentence of imprisonment or order for detention in default of payment of a sum adjudged to be paid on conviction.

(5) For the purposes of paragraph (3)—

(*a*) "hospital or similar institution" means any place (not being a prison, a Borstal institution, a remand home or a training school and not being

(**k**) 1950. c. 5.

at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;

(*b*) "court" means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act 1884(**l**) applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act 1951(**m**), as originally enacted or as subsequently amended, or the Court constituted by that Act;

(*c*) in relation to a person who is liable to be detained in Northern Ireland as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act.

(6) In this regulation—

(*a*) "mental disorder" includes any mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(**n**);

(*b*) "training school" means a school approved under section 106 of the Children and Young Persons Act (Northern Ireland) 1950;

(*c*) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

Suspension of payment of benefit

33.—(1) The payment of any benefit payable to any person shall be suspended whilst that person is undergoing imprisonment or detention in legal custody:

Provided that—

(*a*) this paragraph shall not apply as respects a person who, although undergoing detention in legal custody, is excepted from disqualification for receiving benefit by virtue of regulation 32(3); and

(*b*) the payment to any person of any benefit payable otherwise than in respect of a period during which he is and has continuously been undergoing imprisonment or detention in legal custody shall not be suspended by virtue of this paragraph if another person (who is approved by the Ministry) is appointed by that person to receive such benefit on his behalf.

(2) Where, by virtue of this regulation, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating any period under the provisions of regulation 20 of the National Insurance (Industrial Injuries) (Claims and Payments) Regulations (Northern Ireland) 1969(**o**) (extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time).

Provisions as to incapacity for work

34. A day shall not be treated for the purposes of benefit as a day of incapacity for work if it is a day in respect of which a person has not claimed or is disqualified for receiving injury benefit:

Provided that the fact that a day has not been so treated as a day of incapacity for work shall be disregarded for the purposes of section 12(2) of the Act (period for which disablement benefit is not available).

(**l**) 47 & 48 Vict. c. 31.
(**m**) 14 & 15 Geo. 6. c. 46.
(**n**) 1961. c. 15.
(**o**) S.R. & O. (N.I.) 1969, No. 7.

Application of regulation 34 *to prescribed disease cases*

35. In considering the application to a prescribed disease case of regulation 14 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1960(**p**) (cases where disablement benefit is not preceded by injury benefit) the provisions of regulation 34 shall be disregarded.

PART VII

ADJUSTMENTS IN RESPECT OF OVERLAPPING BENEFITS

Definitions for the purposes of this Part

36.—(1) In this Part—

"personal benefit" means that benefit, pension or allowance (whether under the Act or otherwise) which (apart from this Part) is payable to a person otherwise than in respect of another person who is a child or an adult dependant;

"dependency benefit" means that benefit, pension or allowance (whether under the Act or otherwise) which (apart from this Part) is payable to a person in respect of another person who is a child or an adult dependant;

"death benefit" means any benefit, pension or allowance (whether under the Act or otherwise) which (apart from this Part) is payable in respect of the death of any person;

"personal death benefit" means any personal benefit by way of death benefit;

"disablement pension" not being disablement pension under the Act, includes a disablement payment on a pension basis and retired pay or a pension in respect of any disablement, wound, injury or disease;

"treatment allowance" means an allowance payable to a person undergoing a course of medical, surgical or rehabilitative treatment in consequence of a disablement in respect of which a pension under a Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme may be or has been paid, or an allowance payable to any such person pending the determination of the question whether he is entitled to receive such a pension;

the expressions "Personal Injuries Scheme", "Service Pensions Instrument", "1914-1918 War Injuries Scheme", "training allowance" and "training scheme" have the meanings which are assigned to them by the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1961(**q**).

(2) Benefit by way of an allowance under section 24 of the Act payable to a woman having the care of a child or children shall be treated as personal benefit for the purposes of this Part.

Adjustment of personal benefit under the Act where other personal benefit is payable

37. Where, for any period, any person satisfies the conditions for the receipt of any personal benefit by way of unemployability supplement under section 13 of the Act, or increase of disablement benefit during hospital treatment under section 16 of the Act, that personal benefit shall be adjusted—

(**p**) S.R. & O. (N.I.) 1960, No. 209.
(**q**) See reg. 1(2) of S.R. & O. (N.I.) 1961, No. 180 and reg. 2 of S.R. & O. (N.I.) 1967, No. 107.

(*a*) in the case of an unemployability supplement, by reference to the weekly rate at which any other personal benefit is payable to that person for that period by way of an allowance on account of unemployability under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme;

(*b*) in the case of an increase of disablement benefit during hospital treatment, by reference to the weekly rate at which any other personal benefit by way of treatment allowance is payable to that person for that period under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme;

so as to be payable (if at all) for that period at a weekly rate arrived at by deducting from the weekly rate at which it would otherwise have been so payable the said weekly rate of the other personal benefit by reference to which the personal benefit under the Act is required by this regulation to be adjusted.

Adjustment of dependency benefit under the Act where other dependency benefit (whether under the Act or otherwise) is payable

38.—(1) Where, for any period, the conditions for the receipt by any person of any dependency benefit under the Act in respect of a child or an adult dependant are satisfied, that dependency benefit shall be adjusted—

(*a*) in the case of dependency benefit in respect of a child, by reference to the weekly rate at which any other dependency benefit specified in paragraph (2) is payable for that period in respect of that child;

(*b*) in the case of dependency benefit in respect of an adult dependant, by reference to the weekly rate at which any other dependency benefit so specified is payable for that period to that person in respect of that or any other adult dependant or to any person in respect of that adult dependant;

so as to be payable (if at all) for that period at a weekly rate arrived at by deducting from the weekly rate at which it would otherwise have been so payable the said weekly rate of the other dependency benefit by reference to which the dependency benefit under the Act is required by this regulation to be adjusted.

(2) For the purposes of this regulation the specified dependency benefits shall be any dependency benefit under the Act or any dependency benefit under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme or any training scheme, except any dependency benefit by way of an allowance in respect of a child payable for the purpose of the education of such a child.

(3) The provisions of paragraphs (1) and (2) shall not operate to require the making of any adjustments as between two dependency benefits of which one is dependency benefit by way of an increase of benefit under section 18(1)(*d*) of the Act which is, or but for those provisions would be, payable to a person (hereafter in this paragraph referred to as "the beneficiary") in respect of another person who is employed by, but is not residing with, the beneficiary, and the other is any dependency benefit which is specified in paragraph (2) and is, or but for those provisions would be, payable in respect of that other person to some person other than the beneficiary.

Adjustment of dependency benefit under the Act where personal benefit is payable

39.—(1) Subject to the provisions of paragraph (3), where for any period

any one or more of the personal benefits specified in paragraph (2) is or are payable to any person—

(*a*) if the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period (hereafter in this regulation called "the weekly rate of personal benefit") is equal to or exceeds the weekly rate of any dependency benefit under the Act which, apart from this regulation, is payable for that period (hereafter in this regulation called "the weekly rate of dependency benefit"), there shall not be paid in respect of that person for that period any dependency benefit under the Act; and

(*b*) in any other case, there shall not be paid in respect of that person for that period any dependency benefit under the Act at a weekly rate exceeding the difference between the weekly rate of personal benefit and the weekly rate of dependency benefit:

Provided that nothing in this paragraph shall require that any dependency benefit shall be adjusted by reason of any one or more personal benefits, in a case where the weekly rate of personal benefit is less than £1 6s. a week, below a weekly rate equal to the difference between the weekly rate of personal benefit and £1 6s.

(2) For the purposes of this regulation the specified personal benefits shall be—

(*a*) any personal benefit by way of injury benefit, unemployability supplement or death benefit under the Act;

(*b*) any personal benefit (not being maternity grant or death grant) under the National Insurance Act;

(*c*) any personal benefit by way of unemployability supplement or any personal death benefit by way of pension or allowance (not being a grant payable by reason of the beneficiary being in receipt of a pension and being over 70 years of age or a pension or allowance calculated by reference to the necessities of the beneficiary), under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme; and

(*d*) any personal benefit by way of training allowance under any training scheme.

(3) The provisions of this regulation shall not apply in relation to any dependency benefit by way of an increase of benefit under section 18(1)(*d*) of the Act in respect of a person who is employed by, but is not residing with, the beneficiary.

Dependency benefit under the Act not to be paid where a training allowance is payable

40. Where, for any period, any personal benefit by way of training allowance is payable to any person under any training scheme there shall not be paid to that person for that period any dependency benefit under the Act.

Persons to be treated for certain purposes as entitled to benefit adjusted under this Part

41. Any person who would be entitled to any benefit under the Act but for this Part shall be treated as if he were entitled thereto for the purposes of any rights or obligations under the Act (whether of himself or some other person) which depend on his being so entitled, other than the right to payment of that benefit.

PART VIII

PAYMENTS UNDER THE ACT TO CERTAIN PERSONS WHO CONTRACTED DISEASES OR WERE INJURED BEFORE 5TH JULY 1948

Payments by way of unemployability supplement and increases for children and adult dependants for persons entitled to workmen's compensation

42.—(1) A person who—

(*a*) is or has been on or after 5th July 1948 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts; and

(*b*) as the result of that injury or disease could, for the purposes of section 13 of the Act, be treated as being incapable of work and likely to remain permanently so incapable;

shall have the like right to payments under the Act by way of unemployability supplement, together with the like right to payments under the Act in respect of a child or adult dependant, as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

(2) A person shall not be entitled—

(*a*) at any time to payment in accordance with the provisions of this regulation in respect of more than one injury or disease;

(*b*) to a payment in accordance with the provisions of this regulation during any period for which he is entitled to an increase of disablement pension by way of unemployability supplement under section 13 of the Act.

Payments in respect of the need of constant attendance and in respect of exceptionally severe disablement for persons entitled to workmen's compensation

43.—(1) A person who—

(*a*) is or has been on or after 5th July 1948 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts; and

(*b*) as the result of that injury or disease—

(i) is subject to disabilities which are such that if they had resulted from an accident against which he had been insured under the Act the extent of the resulting disablement would be assessed at 100 per cent.; and

(ii) requires constant attendance;

shall have the like right to payments in respect of the need of such constant attendance and in respect of exceptionally severe disablement under section 6 of the National Insurance (No. 2) Act (Northern Ireland) 1966 as if the said injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.

(2) References in this regulation to an injury or disease in respect of which a person is or has been entitled as aforesaid to weekly payments by way of compensation shall be construed as including every such injury or disease in respect of which he is so entitled, and references in this regulation to the disabilities resulting from an injury or disease and the extent of the resulting disablement shall be construed accordingly.

Application of the provisions of the Act and regulations

44. Subject to the provisions of regulations 42 and 43, the provisions of the Act and of the regulations for the time being in force thereunder relating to benefit and to the making of claims and payments and the determination of claims and questions, in so far as those provisions apply in relation to unemployability supplement or to an increase of a disablement pension in respect of the need of constant attendance, or in respect of exceptionally severe disablement, or in respect of a child or adult dependant shall apply in relation to any payment under regulation 42 or 43 as if such payment were an unemployability supplement under section 13 of the Act or an increase of a disablement pension in respect of the need of constant attendance under section 15 of the Act, or in respect of exceptionally severe disablement under section 6 of the National Insurance (No. 2) Act (Northern Ireland) 1966, or in respect of a child or adult dependant under section 17 or 18 of the Act, as the case may be.

Revocation and transitional provisions

45. The regulations specified in column (1) of Schedule 9 are hereby revoked to the extent mentioned in column (3) of that Schedule:

Provided that the regulations so revoked shall continue to apply for the purpose of determining the rate, amount or period of payment of any benefit payable in respect of any period before, or in respect of any assessment of disablement taking into account any period commencing before, the date of the coming into operation of these regulations and regulation 3 of the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1968(r) shall continue to have effect in relation to any case to which it would have applied if these regulations had not been made.

Given under the Official Seal of the Industrial Injuries Joint Authority this 17th day of January 1969.

(L.S.) *D. J. Carter,*
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 17th day of January 1969.

(L.S.) *H. A. Lowry,*
Assistant Secretary.

(r) S.R. & O. (N.I.) 1968, No. 176.

SCHEDULE 1

Powers exercised in making these Regulations

Industrial Injuries Joint Authority	Ministry of Health and Social Services
(1)	(2)
The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, sections 12(4), 14(7), 15(1), 18(1), 18(3), 19(1), 19(4), 23(1), 23(7), 29(1), 30, 32(1), 33(2), 34(1), 34(5), 73(2), 76(2), Schedule 4, paragraphs 1(*d*) and 2 and Schedule 5, paragraphs 1, 6 and 8.	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, sections 3(3), 5(2), 14(4), 16, 17(3), 31(1) and 34(4); The National Insurance (No. 2) Act (Northern Ireland) 1966, sections 7 and 14(6).

SCHEDULE 2

Regulation 2

Prescribed Degrees of Disablement

	Description of Injury (1)	Degree of Disablement (2) Per cent.
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100
6A.	Forequarter or hindquarter amputation	100
	Amputation Cases—Upper Limbs (either arm)	
7.	Amputation through shoulder joint	90
8.	Amputation below shoulder with stump less than 8 inches from tip of acromion	80
9.	Amputation from 8 inches from tip of acromion to less than 4½ inches below tip of olecranon	70
10.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4½ inches below tip of olecranon	60
11.	Loss of thumb	30
12.	Loss of thumb and its metacarpal bone	40
13.	Loss of four fingers of one hand	50
14.	Loss of three fingers of one hand	30
15.	Loss of two fingers of one hand	20
16.	Loss of terminal phalanx of thumb	20
	Amputation Cases—Lower Limbs	
17.	Amputation of both feet resulting in end-bearing stumps	90
18.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
19.	Loss of all toes of both feet through the metatarso-phalangeal joint	40

	Description of Injury (1)	Degree of Disablement (2) Per cent.
20.	Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
21.	Loss of all toes of both feet distal to the proximal interphalangeal joint	20
22.	Amputation at hip	90
23.	Amputation below hip with stump not exceeding 5 inches in length measured from tip of great trochanter	80
24.	Amputation below hip and above knee with stump exceeding 5 inches in length measured from tip of great trochanter, or at knee not resulting in end-bearing stump	70
25.	Amputation at knee resulting in end-bearing stump or below knee with stump not exceeding 3½ inches	60
26.	Amputation below knee with stump exceeding 3½ inches but not exceeding 5 inches	50
27.	Amputation below knee with stump exceeding 5 inches	40
28.	Amputation of one foot resulting in end-bearing stump	30
29.	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
Other Injuries		
31.	Loss of one eye, without complications, the other being normal	40
32.	Loss of vision of one eye, without complications or disfigurement of eyeball, the other being normal	30
Loss of		
A.	Fingers of right or left hand	
	Index finger—	
33.	Whole	14
34.	Two phalanges	11
35.	One phalanx	9
36.	Guillotine amputation of tip without loss of bone	5
	Middle finger—	
37.	Whole	12
38.	Two phalanges	9
39.	One phalanx	7
40.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger—	
41.	Whole	7
42.	Two phalanges	6
43.	One phalanx	5
44.	Guillotine amputation of tip without loss of bone	2
B.	Toes of right or left foot	
	Great toe—	
45.	Through metatarso-phalangeal joint	14
46.	Part, with some loss of bone	3
	Any other toe—	
47.	Through metatarso-phalangeal joint	3
48.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe—	
49.	Through metatarso-phalangeal joint	5
50.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe—	
51.	Through metatarso-phalangeal joint	6
52.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe—	
53.	Through metatarso-phalangeal joint	9
54.	Part, with some loss of bone	3

SCHEDULE 3 Regulation 3

Scale of Disablement Gratuities

Degree of Disablement (1)	Amount of Gratuity (2)
Per cent.	
1	£50
2	£75
3	£100
4	£125
5	£150
6	£175
7	£200
8	£225
9	£250
10	£275
11	£300
12	£325
13	£350
14	£375
15	£400
16	£425
17	£450
18	£475
19	£500

SCHEDULE 4 Regulation 6

Rate of Disablement Pension payable in lieu of Disablement Gratuity in accordance with Regulation 6

Where the degree of disablement is as specified in column (1) of the following table, the weekly rate of the pension shall be determined in accordance with column (2) of that table:

Degree of Disablement (1)	Weekly Rate of Pension (2)
less than 20 per cent. but not less than 16 per cent.	£1 10s. 6d.
less than 16 per cent. but not less than 11 per cent.	£1 2s. 9d.
less than 11 per cent. but not less than 6 per cent.	15s. 3d.
less than 6 per cent.	7s. 6d.

SCHEDULE 5 Regulations 10 and 21

Prescribed Relationships

(*a*) Lineal descendant or ascendant in a direct line and

(*b*) stepfather
stepmother
stepson
stepdaughter
brother
sister
half-brother
half-sister
step-brother
step-sister

and

(*c*) the father or mother of any woman who is, or was at her death, the wife of the beneficiary or, as the case may be, was the wife of the deceased at either her or his death; and

(*d*) the father or mother of any man who is, or was at his death, the husband of the beneficiary or, as the case may be, was the husband of the deceased at either his or her death.

SCHEDULE 6 Regulation 23

Maximum Amounts of Gratuities payable by way of Death Benefit to Parents or Relatives who were not wholly maintained by the Deceased

1. The amount of any gratuity payable by way of death benefit to a beneficiary who is a relative prescribed for the purposes of section 23 of the Act and who would, but for the provisions of Schedule 5 to the Act, have been entitled to a pension under the said section 23, shall not exceed 156 times the weekly rate of the contributions which the deceased at his death was or would but for the relevant accident have been making to that beneficiary's maintenance.

2. The amount of any gratuity payable by way of death benefit to any other beneficiary who is a parent within the meaning of section 22 of the Act or is a relative shall not exceed 104 times the said weekly rate of the contributions to such beneficiary's maintenance.

SCHEDULE 7 Regulation 24

Provisions applying the Limits imposed by Schedule 5 to the Act on the Amount payable by way of Death Gratuities

1. The amount of £78 in the case of parents' gratuities, or of £52 or £104 (as the case may be) in the case of relatives' gratuities, shall (subject to the provisions of paragraphs 2 and 3 in relation to relatives' gratuities) be apportioned between the persons entitled as parents or as relatives, as the case may be, in proportion to the respective weekly rates of the contributions which the deceased at his death was or would but for the relevant accident have been making to the several maintenance of those persons:

Provided that where the amount ascertained under this paragraph in relation to any person entitled to a parent's or relative's gratuity, as the case may be, exceeds the maximum amount which can be paid to him under the provisions of the Act, the difference between that maximum amount and the amount so ascertained shall—

(*a*) if there is only one other person so entitled, be paid to that person; or

(*b*) if there are two or more other persons so entitled, be apportioned between such persons in accordance with the provisions of this paragraph.

2. Where there is only one relative who is by virtue of the provisions of Schedule 5 to the Act entitled to a gratuity in lieu of a pension under section 23 of the Act, the amount payable to him shall be the full amount to which he is entitled under the relevant provisions of the Act, and the difference (if any) between £104 and the amount so payable to that relative shall—

(*a*) if there is only one other relative, be the amount of the gratuity payable to that other relative; and

(*b*) if there are two or more other relatives, be apportioned between them in accordance with paragraph 1.

3. Where there are two or more relatives each of whom is so entitled to a gratuity in lieu of a pension, the amount of £104 shall be apportioned equally between them.

4. Where, in respect of any death, a parent or relative has been paid the amount of any gratuity finally awarded to him as such, or any part of such amount, the death benefit payable to any person subsequently claiming to be entitled in respect of the same death to a gratuity as a parent or relative shall not exceed the difference between the sum or the aggregate of the sums previously paid as aforesaid in respect of parents' or relatives' gratuities, as the case may be, and—

(*a*) the amount of £78 in the case of parents' gratuities; or

(*b*) the amount of £52 (or £104 where appropriate) in the case of relatives' gratuities;

and the provisions of the Act and of this Schedule shall apply to any such subsequent claimant accordingly:

Provided that where any sum has been repaid or recovered in respect of a gratuity awarded to any person, the amount paid to him on account of that gratuity shall, for the purpose of this paragraph, be treated as reduced by the amount so repaid or recovered.

SCHEDULE 8 Regulation 26

Order of Priority of Title to Allowances under Section 21 of the Act

1. Such person as may be designated in a written notice to the Ministry signed by all the persons satisfying such conditions as aforesaid.

2. A person who, not being entitled to death benefit as such, is the widow of the deceased or who was, before her remarriage, the widow of the deceased.

3. A person who is entitled to death benefit in respect of the deceased's death—

(*a*) by way of a pension; or

(*b*) by way of an allowance under section 24 of the Act as a woman having the care of a child or children of the deceased's family.

4. Such person as the Ministry may in its discretion determine, having regard to the circumstances of the case.

SCHEDULE 9 Regulation 45

Regulations Revoked

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of Revocation (3)
S.R. & O. (N.I.) 1948, No. 203	The National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1948.	The whole of the regulations.
S.R. & O. (N.I.) 1949, No. 73	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1949.	The whole of the regulations.

Statutory Rules and Orders of Northern Ireland	Citation	Extent of Revocation
(1)	(2)	(3)
S.R. & O. (N.I.) 1951, No. 102	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1951.	The whole of the regulations.
S.R. & O. (N.I.) 1951, No. 182	The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 3) Regulations (Northern Ireland) 1951.	The whole of the regulations.
S.R. & O. (N.I.) 1952, No. 140	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1952.	The whole of the regulations.
S.R. & O. (N.I.) 1952, No. 199	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1952.	The whole of the regulations.
S.R. & O. (N.I.) 1953, No. 132	The National Insurance (Industrial Injuries) (Transitional Provisions and Consequential Amendments) Regulations (Northern Ireland) 1953.	In regulation 1(2), the definition of "the Benefit Regulations"; regulation 4; in the heading to the Schedule, the words "the Benefit Regulations"; and in that Schedule, the entries under the heading "The Benefit Regulations".
S.R. & O. (N.I.) 1953, No. 135	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1953.	The whole of the regulations.
S.R. & O. (N.I.) 1955, No. 15	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1955.	The whole of the regulations.
S.R. & O. (N.I.) 1955, No. 164	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1955.	The whole of the regulations.
S.R. & O. (N.I.) 1956, No. 139	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1956.	The whole of the regulations.

Statutory Rules and Orders of Northern Ireland	Citation	Extent of Revocation
(1)	(2)	(3)
S.R. & O. (N.I.) 1957, No. 131	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1957.	The whole of the regulations.
S.R. & O. (N.I.) 1957, No. 243	The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations (Northern Ireland) 1957.	The whole of the regulations.
S.R. & O. (N.I.) 1957, No. 264	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1957.	The whole of the regulations.
S.R. & O. (N.I.) 1958, No. 114	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1958.	The whole of the regulations.
S.R. & O. (N.I.) 1959, No. 93	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1959.	The whole of the regulations.
S.R. & O. (N.I.) 1960, No. 25	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1960.	The whole of the regulations.
S.R. & O. (N.I.) 1960, No. 140	The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations (Northern Ireland) 1960.	The whole of the regulations.
S.R. & O. (N.I.) 1961, No. 2	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1961.	The whole of the regulations.
S.R. & O. (N.I.) 1962, No. 27	The Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland) 1962.	In regulation 1(2), the definition of "the Industrial Injuries Benefit Regulations"; regulation 12(1).
S.R. & O. (N.I.) 1963, No. 37	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1963.	The whole of the regulations.

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of Revocation (3)
S.R. & O. (N.I.) 1964, No. 47	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1964.	The whole of the regulations.
S.R. & O. (N.I.) 1965, No. 12	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1965.	The whole of the regulations.
S.R. & O. (N.I.) 1965, No. 240	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1965.	The whole of the regulations.
S.R. & O. (N.I.) 1966, No. 80	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1966.	The whole of the regulations.
S.R. & O. (N.I.) 1966, No. 119	The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations (Northern Ireland) 1966.	The whole of the regulations.
S.R. & O. (N.I.) 1966, No. 152	The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 3) Regulations (Northern Ireland) 1966.	The whole of the regulations.
S.R. & O. (N.I.) 1967, No. 131	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1967.	The whole of the regulations.
S.R. & O. (N.I.) 1967, No. 235	The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1967.	The whole of the regulations.
S.R. & O. (N.I.) 1968, No. 94	The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations (Northern Ireland) 1968.	In regulation 1(2), the definition of "the Benefit Regulations"; regulation 4.
S.R. & O. (N.I.) 1968, No. 176	The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1968.	The whole of the regulations.

EXPLANATORY NOTE

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

These regulations consolidate the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1948 and subsequent amending regulations which are set out in Schedule 9 and are revoked by regulation 45.

No amendments other than those of a drafting or consequential nature have been made.