

Decisions of Questions.

MADE BY THE MINISTRY OF LABOUR FOR NORTHERN IRELAND,
UNDER SECTION 89 OF THE NATIONAL HEALTH INSURANCE
ACT, 1924 (14 & 15 GEO. 5, C. 38).

1924. No. 89.

The Ministry of Labour for Northern Ireland in pursuance of section 89 of the National Health Insurance Act, 1924, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the National Health Insurance (Decision of Questions) Regulations (Northern Ireland), 1924, and shall come into operation on the 1st day of January, 1925.

Short title
and Inter-
pretation.

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

“The Act” means the National Health Insurance Act, 1924 (14 & 15 Geo. 5, c. 38).

“The Ministry” means the Ministry of Labour for Northern Ireland;

“Society” means an Approved Society;

“Question” means a question required to be determined by the Ministry under section eighty-nine of the Act, unless required to be determined by a Society under these Regulations;

“Application” means an application under these Regulations for the determination of a question;

The “High Court” means the High Court of Justice in Northern Ireland.

(3) The Interpretation Act, 1889, (a) applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2. Any question as to the rate of contributions payable by or in respect of any insured person who is or is about to become a member of a Society shall, instead of being determined by the Ministry be determined by the Society unless the question is in the opinion of the Ministry a question the decision of which may affect the interest of an employer.

Certain
questions to
be deter-
mined by
Society.

3. Any person who desires to obtain the decision of the Ministry on any question may make an application for the purpose by delivering or sending to the Ministry an application, in such one of the forms set out in the First Schedule to these Regulations as is appropriate to the case, or in a form substantially to the like effect:

Application
for the deter-
mination of
question.

Provided that where the question is whether a person is entitled to become a voluntary contributor the application may be delivered or sent to the Ministry in such other form as it may approve.

Procedure on receipt of application.

4.—(1) Save as hereinafter provided, the Ministry shall, upon receipt of an application, deliver or send to any person appearing to be interested a notice that the application has been made, together with a copy of the application and blank form of particulars in the form set out in the Second Schedule to these Regulations.

(2) The notice shall also state that the person to whom a notice is delivered or sent must fill up the form and before the date specified in the notice deliver it or send it to the person specified in that behalf in the notice, and that if he fails so to do he will not be entitled to be heard by the Ministry before the determination of the question.

(3) As soon as may be after the expiration of the period specified in the notice for the submission of particulars by the interested parties, the Ministry shall proceed to fix a date and place for the hearing of the application and shall send at least seven days' notice of the date and place so fixed to the applicant and to such of the persons to whom notice of application was given as have filled up and returned the form of particulars within the prescribed time.

(4) If the question to which the application relates is a question whether a class of employment is or will be employment within the meaning of the Act, the Ministry shall, in addition, give at least seven days' public notice of the application having been made and of the date and place fixed for the hearing in such manner as it thinks best adapted for bringing the matter to the notice of persons interested.

Power to appoint person to hear application.

5. The Ministry may, at any time before giving its decision on any question, refer the application for consideration and report to any person appointed for the purpose, and, if it thinks fit, may direct that the hearing (if any) shall take place before the person so appointed.

Miscellaneous provisions as to hearing.

6.—(1) The applicant and any other person who, having received notice of the application, has duly returned the form of particulars, may attend and be heard at the hearing, and if any other person desires so to attend and be heard, he may, not less than three days before the date fixed for the hearing, apply to the Ministry or the person before whom the hearing is to take place, and the Ministry, or that person, if satisfied that the person so desiring to attend and be heard is interested in the application, may authorise him to attend and be heard accordingly.

(2) Any person entitled to attend or to be heard at the hearing may appear in person, or, with the consent of the Ministry or of the person before whom the hearing takes place,—

- (a) by counsel or by solicitor ;
- (b) by any member of his family ;
- (c) by any person regularly and exclusively employed by him ;
- (d) in the case of a company or corporation, by any director or officer of the company or corporation ; or
- (e) by any officer or member of any society or other body of persons of which the person in question is a member or with which he is connected.

(3) The Ministry or person before whom the hearing takes place, as the case may be, may adjourn the hearing from time to time as seems fit to him.

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

7. If on the consideration of any application it appears to the Ministry for any reason either that, the giving of notice of the application or the holding of a hearing can properly be dispensed with then (notwithstanding anything in these Regulations) the Ministry shall not be bound to give notice of the application or to hold a hearing, as the case may be, and in any case in which it decides to dispense with the giving of notice it may give its decision forthwith, and in any case in which it decides to dispense with the holding of a hearing it may give its decision after considering any particulars or any representations with reference to the application which may be received from any persons :

Power of Ministry to decide applications summarily or without oral hearing.

Provided that if the Ministry decides to dispense with the holding of a hearing it shall, before giving its decision, send to the applicant and to any other person who would be entitled to be heard at a hearing, copies of any such particulars or representations and shall afford to each such person an opportunity of furnishing a written reply thereto or observations thereon.

8. If the question to which the application relates is a question whether a class of employment is or will be employment within the meaning of the Act and the Ministry determines instead of deciding the question itself, to submit it for decision to the High Court under proviso (iii) to sub-section (1) of section eighty-nine of the Act, it shall after the hearing has taken place, or, if it has dispensed with a hearing, after consideration of any particulars, representations and replies furnished under Article 7 of these Regulations, submit the case to the Court in accordance with the provisions of any Rules of the Court relating thereto and for the time being in force.

Questions submitted to the High Court

Notice of
decision.

9.—(1) As soon as may be after the determination of any question by the Ministry, it shall cause a memorandum in writing of its decision to be drawn up in the form set out in the Third Schedule to these Regulations, and shall send a copy of the memorandum to the applicant, and shall also take such other steps as appear to it to be necessary for the purpose of making the decision known to persons interested, either by giving public notice of its decision or by sending copies of the memorandum to those persons.

(2) The Ministry shall not be obliged to give any reasons for its decision on any question.

Procedure
for revising
decisions.

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 revision of the decision under sub-section (2) of section eighty-nine of the Act, the provisions of these regulations with regard to the determination of questions shall apply with such modifications, if any, as the circumstances may require, as though an application had been made.

Questions
referred by
the Court.

11. Where any question is referred to the Ministry under sub-section 4 of section ninety-seven of the Act, for decision in connection with proceedings under the Act before a Court of Summary Jurisdiction, the provisions of these Regulations shall apply with such modifications, if any, as the circumstances may require, as though an application had been made.

Power to
modify
require-
ments.

12. The Ministry may, if it thinks fit in any particular case, and subject to such conditions as it may impose, extend the period during which anything is required to be done under these Regulations, or dispense with any of the requirements of these Regulations, other than requirements made obligatory by any Statute, provided that it is satisfied that there is reasonable cause for such extension or dispensation and that it will not prejudice the interests of any person.

Provisions
as to sending
of notices.

13. Any notice or other document required or authorised to be sent to any person for the purpose of these Regulations shall be deemed to be duly sent if sent by post addressed to that person at his ordinary address.

Repeal of
existing
Regulations.

14. The National Health Insurance (Decision of Questions) Regulations (Ireland), 1921, (a) are hereby revoked, but without prejudice to any right, privilege, obligation, or liability acquired, accrued, or incurred thereunder.

SCHEDULES.

First Schedule.

Form A.

NATIONAL HEALTH INSURANCE ACT, 1924.

FORM OF APPLICATION FOR DETERMINATION OF A QUESTION UNDER SECTION 89 (1) (a) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

Employment or Class of Employment.

1. FULL NAME AND ADDRESS OF APPLICANT :—

.....
.....
.....

2. NATURE OF APPLICANT'S INTEREST IN DETERMINATION OF QUESTION (whether interested as EMPLOYER or EMPLOYEE or otherwise) :—

3. OUTLINE OF QUESTION RAISED :—

(1) NAME AND ADDRESS OF EMPLOYER.

.....
.....
.....

Business or Occupation.....

(2) NAME AND ADDRESS OF EMPLOYEE.

.....
.....
.....

PARTICULARS OF EMPLOYEE'S CONTRACT WITH EMPLOYER :—

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

<p>(ii.) (a) Who has the right to dismiss ? (b) In what circumstances ? (c) With what notice (if any)?</p>	<p>(a) (b) (c)</p>
<p>(iii.) Whether whole time or part time employment. (If part time, give particulars.)</p>	
<p>(iv.) Whether personal service required.</p>	
<p>(v.) (a) Amount of remuneration, and (b) whether a fixed salary or by time, by piece, or commission or otherwise.</p>	<p>(a) (b)</p>
<p>(vi.) By whom remuneration paid.</p>	
<p>(vii.) Nature of duties to be performed, and where performed. (Specify in as much detail as possible.)</p>	
<p>(viii.) By whom orders or directions may be given.</p>	
<p>(ix.) Extent of right of control during performance of duties.</p>	
<p>(x.) Any further information that can be given, including copies of the contract of employment (if in writing) and of any documents bearing on above questions.</p>	

4. NAMES AND ADDRESSES OF OTHER PERSONS DIRECTLY INTERESTED IN SETTLEMENT OF QUESTION :—

.....

5. REASONS FOR CONSIDERING THAT THE APPLICATION OF THE ACTS IN THE PARTICULAR CASE IS OPEN TO QUESTION :—

DECLARATION.

I declare that the above particulars given with a view to the determination by the Ministry of Labour for Northern Ireland under Section 89 (1) (a) of the National Health Insurance Act, 1924, 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.

(Name).....

(Address).....

(Date).....

Section 89 (1) (a) of the Act runs as follows :—

If any question arises—
“(a) whether any employment or any class of employment is or will be employment within the meaning of this Act or whether a person is or was a person employed within the meaning of this Act. . . . the question shall be determined by the Ministry, in accordance with regulations made for the purpose :
“ Provided that—
“(i) If any person feels aggrieved by the decision of the Ministry on any question arising under paragraph (a) he may appeal therefrom upon any question of law to such judge of the High Court as may be selected for the purpose by the Lord Chancellor, and the decision of that judge shall be final.”

Form B.

NATIONAL HEALTH INSURANCE ACT, 1924.

FORM OF APPLICATION FOR DETERMINATION OF A QUESTION UNDER SECTION 89 (1) (b) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

1. FULL NAME AND ADDRESS OF APPLICANT :—

.....
.....
.....

2. NATURE OF APPLICANT'S INTEREST IN DETERMINATION OF QUESTION (whether interested as EMPLOYER or EMPLOYEE or otherwise):—

3. FULL NAMES AND ADDRESSES OF EMPLOYER AND EMPLOYEE (if insured person is an EMPLOYED CONTRIBUTOR).

(a) EMPLOYER

.....

.....

(b) EMPLOYEE

.....

.....

4. OUTLINE OF QUESTION RAISED.
(Explain any apparent difficulties.)

DECLARATION.

I declare that the above particulars given with a view to the determination by the Ministry of Labour for Northern Ireland under Section 89 (1) (b) of the National Health Insurance Act, 1924, of the question (*set out as briefly and as clearly as possible the question raised*).

.....
.....
.....

are to the best of my knowledge and belief correct.

(Name).....

(Address).....

.....

(Date).....

Section 89 (1) (b) to which reference is made in the foregoing declaration is as follows:—

“ If any question arises
 “ (b) as to the rate of contributions payable by or in respect of any insured
 “ person
 “ the question shall be determined by the Ministry in accordance with
 “ regulations made for the purpose :
 “ Provided that
 “ (ii) the regulations may provide for questions under paragraph
 “ (b) being determined, in the case of any person who is or is
 “ about to become a member of an approved society by the society.”*

*The Regulations made under the above section provide that where any question arises as to the rate of contributions payable by or in respect of any insured person who is or is about to become a member of an approved society, the question shall be decided by the society, unless the question is in the opinion of the Ministry a question the decision of which may affect the interest of an employer.

Form C.

NATIONAL HEALTH INSURANCE ACT, 1924.

FORM OF APPLICATION FOR DETERMINATION OF A QUESTION UNDER SECTION 89
(1) (c) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

EMPLOYER'S NAME.....

Address.....

EMPLOYEE'S NAME.....

Home Address.....

Occupation.....

Age.....

Number of days ordinarily worked per week.	
Number of hours ordinarily worked per week.	
Cash wages received by the employee in the week in respect of which the question is raised.	
Number of hours worked during that week.	

The statement below as to " Allowances " should also be filled up unless the Employee receives both board and lodging as part of his remuneration. Whether this is or is not the case should be stated in the space below.

Does the Employee receive both board and lodging as part of the remuneration ?

—	Particulars.	Estimated money value for the week in question.		
		£	s.	d.
ALLOWANCES RECEIVED IN ADDITION TO MONEY.				
Meals (mention number per day).				
Lodging				
Cottage (state full yearly rent which it is worth for letting purposes).				
Wearing apparel ..				
Fuel (give quantity)				
Light (,, ,,)				
Vegetables (,,)				
Milk (,,)				
Set out in detail any other "allowances."	(a)			
(b)				
(c)				
	TOTAL			

DECLARATION.

I declare that the above particulars given with a view to determination by the Ministry of Labour for Northern Ireland under Section 89 (1) (c) of the National Health Insurance Act, 1924, 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.

(Name).....

(Address).....

(Date).....

Section 89 (1) (c) to which reference is made in the foregoing declaration is as follows :—

“ If any question arises
 “ (c) as to the rates of contributions payable in respect of an employed contributor by the employer and the contributor respectively,
 “ the question shall be determined by the Ministry in accordance with the
 “ regulations made for the purpose.”

Form D.

NATIONAL HEALTH INSURANCE ACT, 1924.

FORM OF APPLICATION FOR DETERMINATION OF A QUESTION UNDER SECTION 89 (1) (d) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

Employer of an Employed Contributor.

1. FULL NAME AND ADDRESS OF APPLICANT :—

.....
.....
.....

2. NATURE OF APPLICANT'S INTEREST IN DETERMINATION OF QUESTION (whether interested as a POSSIBLE EMPLOYER or as EMPLOYEE OF OTHERWISE) :—

3. OUTLINE OF QUESTION RAISED :—

1) NAME AND ADDRESS OF—

(a) Immediate Employer, i.e., person by whom employed person is directly engaged.

(b) Any person, other than immediate employer, whom there may be grounds for thinking to be employer for purposes of the National Health Insurance Acts.

.....
.....
.....

Business or Occupation

(2) NAME AND ADDRESS OF EMPLOYEE—

.....
.....
.....

(3) PARTICULARS OF EMPLOYMENT OF EMPLOYEE :—

(i.) (a) Method of obtaining the employment (b) By whom engaged.	(a) (b)
(ii.) (a) Who has right to dismiss? (b) In what circumstances? (c) With what notice (if any)? (State in particular if person other than Immediate Employer has any power of dismissal.)	(a) (b) (c)
(iii.) Whether whole time or part time employment. (If part time, give particulars.)	
(iv.) Whether personal service required.	
(v.) (a) Amount of remuneration, and (b) whether a fixed salary or by time, by piece, or commission or otherwise.	(a) (b)
(vi.) By whom remuneration paid.	
(vii.) Nature of duties to be performed, and where performed. (Specify in as much detail as possible.)	
(viii.) By whom orders or directions may be given.	
(ix.) Extent of right of control during performance of duties by (a) Immediate Employer. (b) Any other person.	
(x.) Whether Immediate Employer is employed within the meaning of the Acts. (If there is any doubt on this, a separate application should be made in Form A.)	
(xi.) Any further information that can be given, including copies of the contract of employment (if in writing), and of any documents bearing on above questions.	

4. NAMES AND ADDRESSES OF OTHER PERSONS DIRECTLY INTERESTED IN SETTLEMENT OF QUESTION :—

.....
.....
.....
.....

5. REASONS FOR CONSIDERING THAT THERE IS A DOUBT AS TO PERSON WHO IS THE EMPLOYER FOR THE PURPOSES OF THE ACTS :—

The following questions to be answered if the case is one to which the Regulations made under Section 9 (6) of the Act, (Intermediate Employers), are thought to apply :—

- (a) Nature of premises on which work is performed.....
.....
.....
- (b) By whom are such premises owned, and whether they are leased to or occupied by any other person ?.....
.....
.....
- (c) Who is responsible for observance of the provisions of the Factory Act, Coal Mines Act, or any other Act applicable to the circumstances of the case ?
.....
.....

DECLARATION.

I declare that the above particulars given with a view to the determination by the Ministry of Labour of Northern Ireland under Section 89 (1) (d) of the National Health Insurance Act, 1924, 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.

(Name).....

(Address).....
.....

(Date).....

Section 89 (1) (d) of the National Health Insurance Act, 1924, runs as follows :—

89 (1). If any question arises—

- (d) as to the person who is or was the employer of an employed contributor the question shall be determined by the Ministry, in accordance with regulations made for the purpose: Provided that—
- (i) if any person feels aggrieved by the decision of the Ministry on any question arising under paragraph (a), he may appeal therefrom upon any question of law to such judge of the High Court as may be selected for the purpose by the Lord Chancellor, and the decision of that judge shall be final.

Second Schedule.

NATIONAL HEALTH INSURANCE ACT, 1924.

APPLICATION FOR DETERMINATION OF A QUESTION UNDER SECTION 89 (1) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

Particulars to be supplied by Interested Party.

Full Name and Address of person making statement :

.....

I am interested in the determination of the question raised by the application of which a copy is annexed, as follows :—

I agree with the particulars stated by the applicant, except as regards the following points :—*

(1.)

(2.)

(3.)

I have the following further statement to make :—

I declare that the information given by me above is to the best of my knowledge and belief correct :—

(Name).....

(Address).....

.....

(Date).....

*In dealing with these points reference should be made by number and letter to the particulars in the application

Third Schedule.

NATIONAL HEALTH INSURANCE ACT, 1924.

MEMORANDUM OF DECISION OF THE MINISTRY OF LABOUR FOR NORTHERN IRELAND ON APPLICATION UNDER SECTION 89 (1) OF THE NATIONAL HEALTH INSURANCE ACT, 1924.

The decision of the Ministry of Labour for Northern Ireland on the question raised on the application dated the.....day of.....made by..... of.....is as follows :—

Signed (on behalf of the Ministry).

Dated.....

Given under the Official Seal of the Ministry of Labour for Northern Ireland this 29th day of December, in the year One thousand nine hundred and twenty-four.

(L.S.)

(Signed) *J. A. Dale,*
Secretary to the Ministry of Labour for Northern Ireland.