



National Insurance (Industrial Injuries) Act 1965

CHAPTER 52

LONDON
HER MAJESTY'S STATIONERY OFFICE
SIX SHILLINGS NET

National Insurance (Industrial Injuries) Act 1965

CHAPTER 52

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ELIZABETH II



1965 CHAPTER 52

An Act to consolidate the National Insurance (Industrial Injuries) Acts 1946 to 1964 and certain related enactments. [5th August 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

INSURED PERSONS AND CONTRIBUTIONS

1.—(1) Subject to the provisions of this Act, all persons employed in insurable employment shall be insured in manner provided by this Act against personal injury caused after 4th July 1948 by accident arising out of and in the course of such employment. Persons to be insured.

(2) For the purposes of this Act, every employment specified in Part I of Schedule 1 to this Act is an insurable employment unless it is an excepted employment, that is to say, an employment specified in Part II of that Schedule:

Provided that Parts I and II of that Schedule shall have effect subject to the provision made by Part III thereof for preventing anomalies.

2.—(1) For the purpose of providing the funds required for paying benefit under this Act, and for making any other payments which under this Act are to be made out of the Industrial Injuries Fund, contributions shall, subject to the provisions of this Act, be payable as follows:—

- (a) every insured person of the classes set out in column 1 of Part I of Schedule 2 to this Act and every employer

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of any such person shall be liable to pay weekly contributions at the respective rates set out in columns 2 and 3 of that Part of that Schedule, unless exempted from that liability as provided in Part II of that Schedule ; and

- (b) there shall be paid out of moneys provided by Parliament, in such manner and at such times as the Treasury may determine, sums estimated in manner aforesaid to be equal to one-fifth of the aggregate amount of contributions paid under the foregoing paragraph.

(2) In relation to persons in such insurable employment as may be prescribed, regulations may provide that the contributions to be paid under subsection (1)(a) of this section by the employer and the insured person shall be determined by reference to work actually done by the insured person or by a group of persons of whom he is one, or to remuneration paid to him or to such a group, instead of by reference to the weeks in which the insured person is employed ; and any such regulations may contain such incidental or supplementary provisions (including provisions modifying any provision relating to contributions contained in or applied by this Act) as appear to the Minister to be expedient for the purposes of the regulations.

(3) No regulations made under subsection (2) of this section shall have effect in relation to any employment which is for the time being an employed contributor's employment within the meaning of the Insurance Act.

Payment of contributions.

3.—(1) Except where regulations otherwise prescribe, the employer shall, in the first instance, be liable to pay both the contribution payable by himself and also, on behalf of and to the exclusion of the insured person, the contribution payable by that person ; and for the purposes of this Act contributions paid by an employer on behalf of an insured person shall be deemed to be contributions by the insured person.

(2) A weekly contribution shall be payable for each contribution week during the whole or any part of which an insured person is employed :

Provided that—

- (a) where one weekly contribution has been paid in respect of an insured person for any week, no further contribution shall be payable in respect of him for the same week ; and
- (b) where, as respects any insurable employment, no services have been rendered by an insured person during any week, and no remuneration is paid wholly or partly

in respect of any day in that week other than a day on which he either—

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(i) has been rendered incapable of work by reason of some specific disease or bodily or mental disablement and would but for the incapacity have been working ; or

(ii) does not work in a normal week,

then, as respects that employment, no contribution shall be payable in respect of the insured person for that week.

(3) Regulations may provide—

(a) for treating a person for the purposes of subsection (2)(b)(i) of this section as incapable of work as therein mentioned when he would not be so treated apart from the regulations ;

(b) as respects any period during which no services are rendered by an insured person, that for the purposes of this Part of this Act any payments which the insured person receives or is entitled (whether conditionally or not) to receive in any prescribed circumstances are or are not to be deemed to be remuneration paid in respect of any day in that period.

(4) If any employer or insured person fails to pay at or within the time prescribed for the purpose any contribution which he is liable under this Act to pay, he shall be liable on summary conviction to a fine not exceeding ten pounds.

(5) The provisions of Part III of Schedule 2 to this Act shall have effect as respects the return of contributions paid erroneously.

(6) Section 11(4) of the Insurance Act (which relates to the payment of contributions through an employment exchange or other agency approved by the Minister) shall apply in relation to the performance under this Act of the duties of employers in connection with the payment of contributions as it applies in relation to the performance of such duties under that Act.

(7) An employer shall be entitled to recover from an insured person, subject to and in accordance with the provisions of section 12 of the Insurance Act and any regulations made under subsection (7) thereof, the amount of any contributions paid or to be paid by the employer on behalf of that person ; and for the purposes of this subsection the said section 12 shall have effect—

(a) as if any reference therein to a contribution under section 3 of that Act or to an employer or insured person were a reference to a contribution, employer or insured person, as the case may be, under this Act ; and

(b) as if in subsections (2) and (6) thereof the words “ in respect of an employed contributor’s employment ” were omitted ; and

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(c) with the substitution in subsection (3)(c)(ii) thereof for references to section 8(5) of that Act and to contributions as an employed person of references respectively to subsection (2) of this section and to contributions as an insured person as respects the employment in question.

Employer's contribution irrecoverable from insured person.

4.—(1) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages or other remuneration of, or otherwise to recover from, the insured person the employer's contribution.

(2) If an employer deducts or attempts to deduct from the wages or other remuneration of an insured person the whole or any part of the employer's contribution, he shall be liable on summary conviction to a fine not exceeding ten pounds.

PART II

BENEFIT

General conditions and description of benefit

General right to and description of benefit.

5.—(1) Subject to the provisions of this Act, where an insured person suffers personal injury caused after 4th July 1948 by accident arising out of and in the course of his employment, being insurable employment, then—

(a) industrial injury benefit (in this Act referred to as "injury benefit") shall be payable to the insured person if during such period as is hereinafter provided he is, as the result of the injury, incapable of work ;

(b) industrial disablement benefit (in this Act referred to as "disablement benefit") by way of disablement gratuity or disablement pension shall be payable to the insured person if he suffers, as the result of the injury, from such loss of physical or mental faculty as is hereinafter provided ;

(c) industrial death benefit (in this Act referred to as "death benefit") shall be payable to such persons as are hereinafter provided if the insured person dies as a result of the injury.

(2) Regulations may provide for treating a person for the purposes of this Act as incapable of work as the result of an accident or injury when he would not be so treated apart from the regulations, and may also make provision—

(a) as to the days which, in the case of a person who at any time is or is to be treated as incapable of work as the result of an accident or injury, are or are not to be treated for the purpose of benefit as days of incapacity for work ; and

(b) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of benefit as the day of the accident.

(3) In this Act, references to loss of physical faculty shall be construed as including references to disfigurement, whether or not accompanied by any actual loss of faculty. PART II

(4) Subject to the provisions of sections 75 and 76 of this Act, benefit shall not be payable in respect of an accident happening while the insured person is outside Great Britain.

6. For the purposes of this Act, an accident arising in the course of an insured person's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment. General presumption as to accidents.

7. An accident shall be deemed to arise out of and in the course of an insured person's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if— Accidents happening while acting in breach of regulations, etc.

(a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purposes of and in connection with the employer's trade or business.

8.—(1) An accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment if— Accidents happening while travelling in employer's transport.

(a) the accident would have been deemed so to have arisen had he been under such an obligation; and

(b) at the time of the accident, the vehicle—

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and

(ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle include references to a ship, vessel or aircraft.

9. An accident happening to an insured person in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, Accidents happening while meeting emergency.

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or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

Accidents caused by other persons' misconduct, etc.

10. An accident happening after 19th December 1961 shall be treated for the purposes of this Act, where it would not apart from this section be so treated, as arising out of a person's employment if—

- (a) the accident arises in the course of the employment ; and
- (b) the accident either is caused by another person's misconduct, skylarking or negligence, or by steps taken in consequence of any such misconduct, skylarking or negligence, or by the behaviour or presence of an animal (including a bird, fish or insect), or is caused by or consists in the insured person being struck by any object or by lightning ; and
- (c) the insured person did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.

Injury benefit

Injury benefit.

11.—(1) An insured person shall be entitled to injury benefit in respect of any day during the injury benefit period on which, as the result of the relevant injury, he is incapable of work :

Provided that, subject to section 29(1)(b) of this Act, an insured person shall not be entitled to injury benefit in respect of the first three such days unless as the result of the relevant injury he is incapable of work during the said period on not less than twelve days.

(2) In determining whether the insured person is incapable of work on the day of the accident, any part of that day before the happening of the accident shall be disregarded.

(3) Injury benefit shall be an allowance payable at the appropriate weekly rate specified in paragraph 1 of Schedule 3 to this Act, and the amount payable for any day of incapacity shall be one-sixth of the weekly rate.

(4) For the purposes of this Act, the expression " the injury benefit period " means, in relation to any accident, the period of one hundred and fifty-six days (Sundays being disregarded) beginning with the day of the accident, or the part of that period for which, under section 12(2) of this Act, disablement benefit in respect of the accident is not available to the insured person.

Disablement benefit

Disablement benefit.

12.—(1) Subject to subsections (2) and (6) of this section an insured person shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement

assessed in accordance with the provisions of Schedule 4 to this Act amounts to not less than one per cent. ; and for the purpose of those provisions there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to one per cent.

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(2) Disablement benefit shall not be available to an insured person until after the third day of the period of one hundred and fifty-six days (Sundays being disregarded) beginning with the day of the relevant accident nor until after the last day (if any) of that period on which he is incapable of work as the result of the relevant accident :

Provided that, where he makes a claim for disablement benefit in respect of the accident before the end of that period and does not withdraw it before it is finally determined, then if on any day of that period not earlier than the making of the claim he is not incapable of work as aforesaid, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

(3) Where the extent of the disablement is assessed for the period taken into account as amounting to less than twenty per cent., disablement benefit shall be a disablement gratuity—

- (a) of an amount fixed, in accordance with the length of the said period and the degree of disablement, by a prescribed scale, but not in any case exceeding the amount specified in paragraph 2 of Schedule 3 to this Act ; and
- (b) payable, if and in such cases as regulations so provide, by instalments.

(4) The scale prescribed for the purposes of subsection (3) of this section shall be the same for all persons, except that a lower amount may be fixed thereby for cases where at the beginning of the period taken into account by the assessment the beneficiary is under the age of eighteen, and may be made to depend on the date on which he will attain that age ; but the said lower amount shall not in any case be less than one-half the amount to which the beneficiary would be entitled if at the beginning of the said period he was over that age nor, in a case where the beneficiary was at the beginning of the said period over the age of seventeen, less than three-quarters of the last-mentioned amount.

(5) Where the extent of the disablement is assessed for the period taken into account as amounting to twenty per cent. or more, disablement benefit shall be a disablement pension for that period payable at the appropriate weekly rate specified in paragraph 3 of Schedule 3 to this Act :

Provided that where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

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(6) Any right to disablement benefit claimed in respect of any period before 26th August 1953 shall be determined in accordance with sections 11(4) and 12(1) of the Act of 1946 as originally enacted, except that the date when the injury benefit period is to be treated as coming to an end shall be determined in accordance with section 11(4) of this Act unless the claimant made an earlier claim in respect of the same accident before 26th August 1953 which was not withdrawn before its final determination.

Increase of disablement pension on account of unemployability.

13.—(1) The weekly rate of a disablement pension shall, if as the result of the relevant loss of faculty the beneficiary is incapable of work and likely to remain permanently so incapable, be increased by the appropriate amount specified in paragraph 4 of Schedule 3 to this Act.

(2) For the purposes of this section, a person may be treated as being incapable of work and likely to remain permanently incapable of work notwithstanding that the loss of faculty is not such as to prevent him being capable of work if it is likely to prevent his earnings in a year exceeding one hundred and four pounds.

(3) An increase of pension under this section (in this Act referred to as an “unemployability supplement”) shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

Increase of disablement pension in cases of special hardship.

14.—(1) The weekly rate of a disablement pension shall, subject to the following provisions of this section, be increased by an amount not exceeding the appropriate amount specified in paragraph 5 of Schedule 3 to this Act if as the result of the relevant loss of faculty the beneficiary—

- (a) is incapable and likely to remain permanently incapable of following his regular occupation ; and
- (b) is incapable of following employment of an equivalent standard which is suitable in his case,

or if as the result of the relevant loss of faculty the beneficiary is and has at all times since the end of the injury benefit period been incapable of following the said occupation or any such employment as aforesaid.

(2) In the foregoing subsection—

- (a) the reference to a person’s regular occupation shall be taken as not including any subsidiary occupation of his ;
- (b) the reference to employment of an equivalent standard shall be taken as not including employment other than insurable employment ;

and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard shall be had to his reasonable prospects of advancement.

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(3) For the purposes of this section, a person's regular occupation shall be treated as extending to and including employment in the capacities to which the persons in that occupation (or a class or description of them to which he belonged at the time of the relevant accident) are in the normal course advanced, and to which, if he had continued to follow that occupation without having suffered the relevant loss of faculty, he would have had at least the normal prospects of advancement; and so long as he is as a result of the relevant loss of faculty deprived in whole or in part of those prospects, he shall be treated as incapable of following that occupation.

(4) Regulations may for the purposes of this section provide that a person shall not be treated as capable of following an occupation or employment merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.

(5) An unemployability supplement and an increase of pension under this section shall not be payable for the same period.

(6) Subject to the last foregoing subsection, an increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time, and the amount of the increase shall be determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in the insurable employments, if any, which are suitable in his case and which he is likely to be capable of following as compared with that in his regular occupation within the meaning of subsection (1) of this section.

(7) Regulations may make as respects a disablement gratuity provision corresponding to that made by this section as respects a disablement pension, and may include provision for payment of a pension in lieu of a gratuity.

15.—(1) Where a disablement pension is payable in respect of an assessment of one hundred per cent., then, if as the result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by an amount, not exceeding the appropriate amount specified in paragraph 6 of Schedule 3 to this Act, determined in accordance with regulations by reference to the extent and nature of the attendance required by the beneficiary.

Increase of
disablement
pension where
constant
attendance
needed.

(2) An increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time:

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Provided that no such increase shall be payable in respect of a period for which the beneficiary is receiving free of charge medical treatment as an in-patient in a hospital or similar institution.

Increase of disablement benefit during hospital treatment.

16.—(1) Where a person is awarded disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than one hundred per cent., it shall be treated as assessed at one hundred per cent. for any part of that period, whether before or after the making of the assessment or the award of benefit, during which he receives, as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty.

(2) Where the extent of the disablement is assessed as aforesaid at less than twenty per cent., the foregoing subsection shall not affect the operation of section 12(3) of this Act, but, in the case of a disablement pension payable by virtue of this section to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase provided for by this Act) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

Increase of injury benefit or disablement pension in respect of dependants

Increase of injury benefit or disablement pension in respect of children.

17.—(1) Subject to subsections (3) to (6) of this section, for any period during which—

- (a) a beneficiary entitled to injury benefit has a family which includes a child or children ; or
- (b) a beneficiary entitled to a disablement pension has such a family and is either entitled to an unemployment supplement or receiving, as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty,

the weekly rate of the injury benefit or disablement pension shall be increased by the appropriate amount or amounts specified in paragraph 7 of Schedule 3 to this Act.

(2) Without prejudice to subsection (4) and subject to subsection (5) of this section, a child of the family of any woman for the time being residing with the beneficiary shall be treated for the purposes of this section as a child of the beneficiary's family if the child either—

- (a) is an illegitimate son or daughter of theirs ; or
- (b) was born not less than six months before the date of the relevant accident and wholly or mainly maintained by the beneficiary throughout the six months ending with that date.

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(3) Without prejudice to subsection (4) and subject to subsection (5) of this section, where a man is entitled to injury benefit or a disablement pension there shall be treated as included in the beneficiary's family for the purposes of this section any child who, on the day for which the increase provided for by this section is claimed, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as so included, or could have been treated under that paragraph as so included but for the fact that the beneficiary is contributing to the cost of providing for the child at a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of that Act.

(4) An increase under this section of any amount in respect of any particular child shall not be payable for any period during which neither of the following conditions is satisfied with respect to that child, that is to say—

- (a) that the child in question is living with the beneficiary ;
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 of the amount in question by the beneficiary, or, where the beneficiary is one of spouses living together, by those spouses taken together, being, if an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, contributions over and above those required for the purposes of section 3(2) of that Act or, as the case may be, for the purposes of the proviso to paragraph 1(1) of the Schedule to that Act.

(5) Where a person is entitled in respect of a child to a guardian's allowance under section 29 of the Insurance Act, the amount, if any, payable to that or any other person by way of an increase under this section of any benefit shall be such, and such only, as would be payable if that child were not included or treated as included in any family.

(6) A married woman shall not be entitled to an increase under this section of the weekly rate of injury benefit or a disablement pension for any period during which she is residing with her husband and he is not incapable of self-support.

18.—(1) The weekly rate of injury benefit shall be increased by the amount specified in paragraph 8 of Schedule 3 to this Act for any period during which—

- (a) the beneficiary is—
 - (i) residing with his wife ; or

Increase of injury benefit or disablement pension in respect of adult dependants.

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- (ii) contributing to the maintenance of his wife at a weekly rate of not less than the amount aforesaid ; or
- (b) the beneficiary is wholly or mainly maintaining her husband and he is incapable of self-support ; or
- (c) the beneficiary has residing with him and is wholly or mainly maintaining any such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled ; or
- (d) some female person (not being a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 17 of this Act, being a person in relation to whom such further conditions as may be prescribed are fulfilled.

(2) For any period for which the beneficiary either is entitled to an unemployability supplement or is receiving, as an in-patient in a hospital or other institution, medical treatment for the relevant injury or loss of faculty, subsection (1) of this section shall apply to a disablement pension as it applies to injury benefit.

(3) Regulations may provide that a beneficiary shall not be entitled to an increase of benefit under this section in respect of a wife or husband where the earnings of the wife or husband (calculated or estimated in the prescribed manner and on the prescribed basis) exceed the prescribed amount.

(4) A beneficiary shall not be entitled to an increase of benefit under this section in respect of more than one person for the same period.

(5) In this section, the expression "relative" does not include any person who is a child, but includes a person who is a relative by marriage or adoption and a person who would be a relative if some person born illegitimate had been born legitimate.

Death benefit

Widows.

19.—(1) The widow of the deceased shall be entitled to death benefit if at his death she either was residing with him or was receiving or entitled to receive, or would but for the relevant accident have been receiving or entitled to receive, from him periodical payments for her maintenance of not less than the prescribed amount.

(2) In the case of a widow, death benefit shall be—

- (a) a pension commencing from the death of the deceased and payable, at the weekly rate for the time being applicable under the following provisions of this section, for life or until she remarries ; and

- (b) a gratuity, payable on the termination of the pension in consequence of her remarriage, of an amount equal to fifty-two times the weekly rate of the pension to which she was then entitled :

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Provided that, subject to section 32(2) of this Act, a pension under this section shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

(3) Subject to the following provisions of this section, the weekly rate of a pension payable under this section shall be that specified in paragraph 9(a) of Schedule 3 to this Act—

- (a) for any period for which the widow is entitled to an allowance under section 21 of this Act in respect of a child of the deceased's family ; or
- (b) where the widow was over the age of fifty at the deceased's death or was over the age of forty at the end of a period for which she was entitled to such an allowance ; or
- (c) where the widow at the deceased's death was permanently incapable of self-support ; or
- (d) subject to such exceptions and conditions as may be prescribed, for any period during which the widow has residing with her a person who, though not such a child of her family as would entitle her to a payment under section 21 of this Act, is under the age of nineteen years and at the deceased's death was, or would but for the fact that at the deceased's death that person had attained the upper limit of the compulsory school age or was not in Great Britain have been, a child of the deceased's family for the purposes of the said section 21, and, where at the expiration of such a period as aforesaid the widow has attained the age of forty, for any period thereafter ; or
- (e) while the widow is pregnant by the deceased, and in any other case shall be one pound :

Provided that, if the deceased and his widow were not residing together at his death, the said weekly rate shall not exceed the aggregate weekly rate of the payments referred to in subsection (1) of this section.

(4) Regulations may provide that, for any prescribed period ending not later than thirteen weeks after the deceased's death, there shall be substituted for the weekly rate of pension otherwise applicable under subsection (3) of this section such higher rate not exceeding that specified in paragraph 9(b) of the said Schedule 3 as may be prescribed.

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(5) For the purposes of this section—

- (a) references to a widow receiving or being entitled to receive payments from the deceased shall be construed as referring, and as referring only, to her receiving or being entitled to receive whether from him or from another payments provided or procured by the deceased ;
- (b) the expression “entitled” means, in relation to any such payments, entitled under any order of a court, trust or agreement which the widow has taken reasonable steps to enforce.

Widowers.

20.—(1) The widower of the deceased shall be entitled to death benefit if at her death he—

- (a) was being wholly or mainly maintained by her or would but for the relevant accident have been so maintained ; and
- (b) was permanently incapable of self-support.

(2) In the case of a widower, death benefit shall be a pension at the weekly rate specified in paragraph 10 of Schedule 3 to this Act commencing from the death of the deceased and payable for life.

Children of deceased's family.

21.—(1) Subject to subsection (4) of this section and to the provisions of Schedule 5 to this Act, where at his death the deceased had a family which included a child or children, then, for any period during which a person has a family which includes that child or one or more of those children, that person shall be entitled in respect of that child or in respect of each respectively of those children to death benefit by way of an allowance at the appropriate weekly rate specified in paragraph 11(a) of Schedule 3 to this Act.

(2) Subject as aforesaid, where the person to whom an allowance under subsection (1) of this section is payable is the widow of the deceased and is for the time being also entitled to death benefit (other than a gratuity) under section 19 of this Act, the weekly rate of that allowance shall be increased by the appropriate amount specified in paragraph 11(b) of the said Schedule 3.

(3) Subject to subsection (4) of this section, where the deceased was a man—

- (a) a legitimate son or daughter of his who—
 - (i) at his death was a child of his wife's, but not of his, family ; or
 - (ii) is born to him posthumously ; and
- (b) an illegitimate son or daughter of him and any woman residing with him at his death, being a son or daughter

PART II

who then was a child of her family and was being, or would but for the relevant accident have been, wholly or mainly maintained by him; and

(c) a child who at the deceased's death was a child of some other person's family but could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as a child of the deceased's family; and

(d) subject to such exceptions and conditions as may be prescribed, a child who, having at the death of a previous husband of the wife by a marriage which ended with that husband's death been a child of that husband's family, was at the deceased's death a child of the wife's family,

shall be treated for the purposes of this section as having been a child of the deceased's family at his death.

(4) Section 17(4) and (5) of this Act shall apply in relation to an allowance under subsection (1) of this section as they apply in relation to an increase of benefit under that section; and such an allowance in respect of a child who is not living with the beneficiary shall not be increased by any amount under subsection (2) of this section for any period unless during that period the contributions such as are referred to in paragraph (b) of the said section 17(4) which qualify the beneficiary for the payment of the allowance are being made at a weekly rate not less than that of the said amount over and above that necessary to qualify for the allowance.

22.—(1) A parent of the deceased shall be entitled to death benefit if at the deceased's death he or she was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained. Parents.

(2) In the case of a parent who, at the deceased's death, was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained, death benefit shall be a pension commencing from the death of the deceased and, subject to subsection (3) of this section, payable for life.

(3) A pension payable under subsection (2) of this section to the deceased's mother—

(a) shall terminate on her remarriage or marriage; and

(b) subject to section 32(2) of this Act, shall not be payable for any period during which she is cohabiting with a man not her husband,

unless the man whom she marries or, as the case may be, with whom she is cohabiting is a man with whom she was cohabiting immediately before the deceased's death.

PART II

(4) In the case of a parent entitled to death benefit under subsection (1) of this section but not to a pension under subsection (2) thereof, death benefit shall be a gratuity payable, if and in such cases as regulations so provide, by instalments.

(5) Subject to section 34(5) of this Act—

(a) the weekly rate of a pension payable to a parent under subsection (2) of this section shall be fifteen shillings for any period for which the parents are living together and are both entitled to such a pension (whether in respect of the same or another death), and one pound for any other period ;

(b) the amount of a gratuity payable to a parent under subsection (4) of this section shall be fifty-two pounds, so, however, that this paragraph shall have effect subject to the provisions of Schedule 5 to this Act limiting the benefit payable in respect of any death.

(6) In this section, the expression “parent” includes a step-parent and a parent by adoption and, in a case where the deceased was illegitimate, his mother, and the expression “mother” shall be construed accordingly.

Relatives.

23.—(1) Subject to the provisions of Schedule 5 to this Act, any such relative of the deceased as may be prescribed shall be entitled to death benefit if at the deceased's death—

(a) the relative was being wholly or mainly maintained by the deceased or would but for the relevant accident have been so maintained ; or

(b) the relative was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained, and—

(i) in the case of a man, was permanently incapable of self-support ;

(ii) in the case of a woman, was herself permanently incapable of self-support or was living with her husband who was permanently incapable of self-support.

(2) Subject to the provisions of the said Schedule 5 and to section 34(5)(a) of this Act, in the case of a relative entitled to death benefit under subsection (1) of this section, the benefit shall be a pension at the weekly rate of one pound if—

(a) the relative fulfils the conditions specified in subsection (1)(a) of this section ; and

(b) the relative or, in the case of a married woman living with her husband, she or her husband was at the deceased's death permanently incapable of self-support ;

and any such pension shall commence from the deceased's death and, subject to subsection (3) of this section, shall be payable for such period as may be determined at the time it is granted, but may, if the beneficiary or her husband, as the case may be, continues to be permanently incapable of self-support, or, in the husband's case, has died during the continuance of that incapacity, be renewed from time to time.

(3) A pension under subsection (2) of this section shall cease on the death of the beneficiary within the period for which it was granted and, in the case of a woman—

- (a) subject to section 32(2) of this Act, shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband ; and
- (b) shall cease on her marriage or remarriage within the period aforesaid or, where the pension was granted by virtue of her husband's incapacity, on the termination of their marriage otherwise than by his death or on their ceasing to live together within that period, and shall not thereafter be renewed.

(4) Subject to the provisions of the said Schedule 5 and to section 34(5)(b) of this Act, in the case of a relative entitled to death benefit under subsection (1) of this section but not to a pension under subsection (2) thereof, the benefit shall be—

- (a) if the relative fulfils the condition specified in subsection (1)(b) but not the condition specified in subsection (1)(a) of this section, a gratuity of fifty-two pounds payable, if and in such cases as regulations so provide, by instalments ; and
- (b) if the relative fulfils the condition specified in the said subsection (1)(a), an allowance at the weekly rate of one pound sixteen shillings, commencing from the deceased's death and payable for thirteen weeks from that death or, if the beneficiary dies within those thirteen weeks, until the beneficiary's death.

(5) In this section the expression " relative " does not include a husband or wife, or a parent within the meaning of section 22 of this Act, but (subject to the foregoing provisions of this subsection) includes a person who is only a relative by marriage or adoption and a person who would be a relative if some person born illegitimate had been born legitimate.

(6) Notwithstanding anything in the foregoing provisions of this section, a relative who was a child at the deceased's death shall not be entitled to benefit thereunder—

- (a) until he ceases to be a child ; or

PART II

(b) unless he was at the deceased's death and is on ceasing to be a child permanently incapable of self-support ; and any pension payable to such a relative under this section shall commence only from the date on which he ceases to be a child.

(7) Where the deceased was a man, this section shall apply to a posthumous son or daughter of his (whether legitimate or illegitimate) subject to such modifications as may be prescribed.

Women
having care
of deceased's
children.

24.—(1) Subject to the provisions of Schedule 5 to this Act, where at the date of the relevant accident and throughout the period between that date and his death—

- (a) the deceased had a family which included a child or children ; and
- (b) a female person not being a child was residing with the deceased and had the care of the child or one or more of the children,

she shall be entitled to death benefit if she was being wholly or mainly maintained by the deceased at the said date and was, or would but for the accident have been, so maintained throughout the said period.

(2) Where the deceased was a man, any illegitimate son or daughter of him and the said female person shall be treated for the purposes of this section as having been a child of the deceased's family during any part of the said period during which he or she—

- (a) was a child of the female person's family ; and
- (b) was, or would but for the relevant accident have been, wholly or mainly maintained by the deceased.

(3) Subject to section 30(c) of this Act, benefit under this section shall be an allowance at the weekly rate of one pound commencing from the death of the deceased and payable for any period during which the beneficiary has the care of the child or one or more of the children aforesaid :

Provided that—

- (a) the allowance shall cease to be payable upon the marriage or remarriage of the beneficiary ; and
- (b) subject to section 32(2) of this Act, the allowance shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

Obligations of claimants and beneficiaries and of employers

Obligations of
claimants and
beneficiaries.

25.—(1) Regulations may provide—

- (a) for requiring the prescribed notice of any accident in respect of which benefit may be payable to be given within the prescribed time by the insured person, or,

PART II

where within that time he dies as a result of the accident, by such other person as may be prescribed, to the insured person's employer or other prescribed person ;

- (b) for requiring claims for benefit to be made within the prescribed time and in the prescribed manner, and for requiring claimants to furnish to the prescribed person any information required for the determination thereof or of any question arising in connection therewith ;
- (c) for requiring beneficiaries to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or to the receipt thereof, and to furnish as aforesaid any information required for the determination of any question arising in connection with the award.

(2) Regulations may further provide for requiring claimants for, and beneficiaries in receipt of, injury benefit or disablement benefit—

- (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty ;
- (b) to submit themselves from time to time to appropriate medical treatment for the said injury or loss of faculty ;
- (c) to attend any vocational training course or industrial rehabilitation course provided under the Disabled Persons (Employment) Act 1944 which in the opinion of the Minister of Labour is appropriate in their case. 1944 c. 10.

(3) Regulations made under this section requiring persons to submit themselves to medical examination or treatment may—

- (a) require those persons to attend at such places and at such times as may be required ; and
- (b) with the consent of the Treasury, provide for the payment by the Minister to those persons of travelling and other allowances (including compensation for loss of remunerative time).

(4) Without prejudice to subsection (2) of this section, it shall be the duty of any person claiming or entitled to injury benefit in respect of any injury not to behave in any manner calculated to retard his recovery.

26. Regulations may provide for requiring employers—

Obligations of employers.

- (a) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which benefit may be payable ;

PART II

- (b) to furnish to the prescribed person any information required for the determination of claims or of questions arising in connection with claims or awards ;
- (c) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions arising as aforesaid.

Payment of benefit, and provisions as to adjustments, disqualifications, etc.

Administration
of benefit.

27.—(1) Provision may be made by regulations as to the time and manner of payment of benefit, and regulations made jointly by the Minister and the Postmaster General may provide for payment thereof through the Post Office.

(2) Regulations made under this section as to the time of payment of benefit may provide—

- (a) notwithstanding anything in this Act, for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that, except in the case of injury benefit, payments shall not be made in respect of periods less than a week or at different rates for different parts of a week ;
- (b) for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within six months or such shorter period as may be prescribed from the time at which that sum is receivable in accordance with the regulations.

(3) Regulations may also provide—

- (a) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act, and for authorising a person so appointed to receive any sum payable by way of benefit on behalf of the claimant or beneficiary ;
- (b) in connection with the death of a claimant or beneficiary, for enabling the claim to be proceeded with, for authorising payment or distribution of benefit to or amongst persons claiming as personal representatives, legatees, next of kin or creditors of the claimant or beneficiary (or, in cases of illegitimacy of deceased persons, to or amongst others), and for dispensing with strict proof of the title of persons so claiming.

(4) Where any sum payable by way of benefit would, apart from this subsection, include a fraction of a penny, that fraction

shall be disregarded if it is less than a halfpenny and shall be treated as a penny if it is a halfpenny or more. PART II

28.—(1) Subject to the subsequent provisions of this Act, every assignment of, or charge on, benefit, and every agreement to assign or charge benefit, shall be void, and, on the bankruptcy, or, in Scotland, on the sequestration of the estate, of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors. Benefit to be inalienable.

(2) In calculating for the purposes of section 5 of the Debtors Act 1869 or section 4 of the Civil Imprisonment (Scotland) Act 1882 the means of any beneficiary, no account shall be taken of any increase of injury benefit or disablement benefit in respect of a child or of any death benefit. 1869 c. 62.
1882 c. 42.

29.—(1) Where a person suffers two or more successive accidents against which he is insured under this Act— Adjustments for successive accidents.

(a) he shall not for the same period be entitled (apart from any increase of benefit such as is mentioned in subsection (2) of this section) to receive benefit, either by way of injury benefit and a disablement pension or pensions or by way of two or more disablement pensions, at an aggregate weekly rate exceeding the appropriate amount specified in paragraph 12 of Schedule 3 to this Act ;

(b) the proviso to section 11(1) of this Act shall, in relation to two or more accidents happening at intervals not greater than thirteen weeks as the result of each of which he is incapable of work on some day during its injury benefit period, apply so as to permit of there being taken into account, for the purpose of making up in the case of each of those accidents the twelve days referred to in the said proviso, any days which may be so taken into account in the case of any other of them ;

(c) regulations may provide for adjusting—

(i) injury benefit or disablement benefit, or the conditions for the receipt thereof, in any case where he has received or may be entitled to a disablement gratuity ;

(ii) any increase of benefit such as is mentioned in subsection (2) of this section, or the conditions for the receipt thereof.

(2) The increases of benefit referred to in the foregoing subsection are increases in the rate of injury benefit or a disablement pension under sections 13, 15, 17 and 18 of this Act, and for the purposes of paragraph (a) of that subsection include also,

PART II in the case of a beneficiary under the age of seventeen, any increase in the rate of a disablement pension under section 14 of this Act.

Overlapping benefits.

30. Provision may be made by regulations, in respect of any pension or allowance (excluding an allowance under the Family Allowances Act, but including benefit payable otherwise than in respect of the relevant accident) payable out of public funds (hereafter in this section referred to as "the additional payment") for adjusting—

- (a) any increase of benefit under section 13, 15, 16(1), 17 or 18, or any disablement pension payable by virtue of section 16(2), of this Act, or the conditions for the receipt thereof, where the additional payment is payable to or in respect of—
 - (i) the claimant or beneficiary or his wife or her husband ; or
 - (ii) any child or adult dependant, or the wife or husband of any adult dependant, in respect of whom the increase is claimed or payable ;
- (b) the weekly rate (apart from any such increase of benefit as aforesaid) of injury benefit or a disablement pension, other than such a pension payable by virtue of the said section 16(2), where the additional payment is payable to or in respect of the claimant or beneficiary or his wife or her husband in virtue of a relationship to, dependence on or other connection with some other person, whether living or dead ;
- (c) death benefit, or the conditions for the receipt thereof, where the additional payment is payable to or in respect of—
 - (i) the claimant or beneficiary or his wife or her husband ; or
 - (ii) any child in respect of whom, under section 21 or 24 of this Act, the benefit is claimed or payable.

Disqualifications and suspensions.

31.—(1) 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—

- (a) is absent from Great Britain ; or
- (b) is undergoing imprisonment or detention in legal custody ;

and regulations may provide for the suspension of payment to or in respect of any person during any such period as aforesaid

of benefit which is excepted from the operation of the foregoing provisions of this subsection or which is payable otherwise than in respect of that period.

PART II

(2) Regulations may provide for disqualifying a claimant or beneficiary for the receipt of injury benefit for failure without good cause to comply with the requirements of section 25(4) of this Act in respect of the relevant injury, and may further provide for disqualifying a claimant or beneficiary for the receipt of benefit—

- (a) for failure without good cause to comply with any requirement of regulations made by virtue of any other provision of that section (including, in the case of a claim for death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);
- (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations so made to submit himself, or any course which he is so required to attend, or any proceedings under this Act for the determination of his right to benefit or to the receipt thereof,

or for suspending proceedings on the claim or payment of benefit, as the case may be, in the case of any such failure, obstruction or misconduct:

Provided that regulations under this subsection providing for disqualification for the receipt of benefit for any of the following matters, that is to say—

- (i) for failure to comply with the requirements of the said section 25(4);
- (ii) for failure to comply with the requirements of regulations under the said section 25 relating to medical examination or treatment;
- (iii) for obstruction of or misconduct in connection with medical examination or treatment,

shall not be made so as to disentitle a claimant or beneficiary to benefit for a period exceeding six weeks on any disqualification.

(3) Where it appears to the Minister that a question has arisen whether—

- (a) the conditions for receipt of benefit under an award are or were fulfilled; or

PART II

(b) an award of benefit ought to be revised in accordance with Part III of this Act,

he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.

Disqualifications, etc. to be disregarded for certain purposes.

32.—(1) Regulations may provide that a person who would be entitled to any benefit but for the operation of any of the following provisions of this Act, that is to say, the proviso to section 19(2) and sections 22(3)(b), 23(3)(a), 24(3)(b), 29, 30 and 31, shall be treated as if he were entitled thereto for the purpose of any rights or obligations (whether of himself or any other person) under this Act or under Part II of the Insurance Act which depend on his being so entitled, other than the right to payment of that benefit.

1961 c. 6
(10 & 11
Eliz. 2).

(2) Subject to any limitation imposed by regulations made under paragraph 5(2) of Schedule 3 to the Family Allowances and National Insurance Act 1961, in determining a woman's right to a pension or allowance in respect of a deceased person under section 19, 22, 23 or 24 of this Act for any period after 25th February 1962, or her right on her re-marriage after that date to a gratuity under the said section 19, her cohabitation with a man at any time after the deceased's death but before that date shall be disregarded; but a right to benefit arising by virtue of this subsection shall not, under Schedule 5 to this Act, affect the right of any other person to benefit awarded before that date.

Supplementary

Definition of medical treatment and provisions relating thereto.

33.—(1) For the purposes of this Act the expression "medical treatment" means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references to a person receiving or submitting himself to medical treatment shall be construed accordingly.

(2) Regulations may provide—

- (a) for determining in what cases and for what periods a person receiving medical treatment as an in-patient is or is not to be treated for the purposes of this Act as receiving it free of charge;
- (b) that where a person receives medical treatment as an in-patient for two or more distinct periods separated by an interval or intervals of less than a specified duration, he shall be treated for the purposes of this Act as receiving it continuously from the beginning of the first period until the end of the last.

34.—(1) Regulations may provide for determining the circumstances in which a person is or is not to be deemed for the purposes of this Act to be wholly or mainly, or to a substantial extent, maintaining, or to be contributing at any weekly rate to the maintenance of, another person or to be or have been contributing at any weekly rate to the cost of providing for a child.

PART II
Provisions
as to
maintenance
and
incapacity for
self support.

(2) Regulations under the foregoing subsection as respects the circumstances in which a person is to be deemed to be wholly or mainly maintaining another person may provide, for the purposes of section 18 of this Act, that where—

- (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to an increase of benefit under that section in respect of that person if he were wholly or mainly maintaining that person ; and
- (b) the contributions made by those two or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, have been sufficient to satisfy the requirements of those regulations,

that person shall be deemed to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.

(3) Regulations under subsection (1) of this section may further provide, for the purposes of sections 22 and 23 of this Act, that where—

- (a) 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 the said section 22 or a relative prescribed for the purposes of the said section 23, as the case may be ; and
- (b) the insured persons have died as the result of accidents against which they were insured under this Act,

the parent or relative shall be treated as having received from such of those insured persons as may be prescribed contributions to his maintenance equal to the aggregate amount which they were together contributing before the accidents happened, and as having received nothing from the others.

(4) Regulations may provide for 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, to be treated for the purposes of section 17(4)(b) and 18(1)(a)(ii) of this Act as such contributions, of such respective amounts equal in the

PART II aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of dependants.

(5) In the case of death benefit, except where the deceased at his death was, or would but for the relevant accident have been, wholly maintaining the beneficiary—

- (a) the weekly rate of any pension payable to the beneficiary as a parent within the meaning of the said section 22, or as a relative prescribed for the purposes of the said section 23, shall not exceed the weekly rate of the contributions which the deceased at his death was or would but for the relevant accident have been making to the beneficiary's maintenance; and
- (b) the amount of any gratuity payable to the beneficiary as such a parent or relative shall not exceed such multiple of the weekly rate of the contributions aforesaid as may be determined by or in accordance with regulations:

Provided that, in the case of a relative who was at the deceased's death a child, or is a posthumous son or daughter of the deceased, references in this subsection to the weekly rate of the contributions aforesaid shall be construed as references to the weekly rate of the contributions which the deceased might have been expected to have been making to the relative's maintenance when he ceased to be a child.

(6) For the purposes of this Act—

- (a) a person shall be deemed to be incapable of self-support if, but only if, he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period;
- (b) a person shall be deemed to be permanently incapable of self-support if, but only if, he is incapable of supporting himself by reason aforesaid and is likely to remain so incapable for the remainder of his life.

PART III

DETERMINATION OF CLAIMS AND QUESTIONS

Determination of certain questions by Minister

35.—(1) Subject to the provisions of this Part of this Act, ^{Certain questions to be determined by Minister.} any question arising under this Act—

- (a) whether a person is or was employed in insurable employment ;
- (b) whether a person so employed or his employer is or was exempt from payment of contributions as provided in Part II of Schedule 2 to this Act ;
- (c) who is or was liable for payment of contributions as the employer of any insured person ;
- (d) at what rate contributions are or were payable by or in respect of any person or class of persons ;
- (e) whether any employment is or was one in respect of which contributions are or were payable in accordance with regulations under section 2(2) of this Act ;
- (f) whether an increase of disablement pension in respect of the need of constant attendance is to be granted or renewed and, if so, for what period and of what amount ;
- (g) how the limitations under Schedule 5 to this Act on the benefit payable in respect of any death are to be applied in the circumstances of any case,

shall be determined by the Minister.

(2) Any question arising under this Act as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included, in a case where by virtue of the Schedule to the Family Allowances Act that question falls to be decided by the Minister in his discretion, shall be determined by the Minister in accordance with Part IV of the Insurance Act in like manner as the corresponding question mentioned in section 64(1)(d) of that Act.

(3) Section 65 of the Insurance Act (which provides with respect to questions of law arising in connection with the determination by the Minister of questions falling to be determined by him under that Act for references of, and appeals on, such questions of law to the High Court or Court of Session) shall apply in relation to any question arising under this Act such as is mentioned in subsection (1)(a) to (e) of this section as it applies in relation to any question arising under that Act such as is mentioned in section 64(1)(a) to (c) of that Act.

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(4) Section 66(1) of the Insurance Act (which relates to the review by the Minister of certain decisions given by him) shall apply in relation to any decision given by the Minister on any question such as is mentioned in subsection (1) of this section as it applies in relation to any decision given by him on any question such as is mentioned in the said section 64(1)(a) to (c).

*Determination of certain other questions in accordance with
Part IV of the Insurance Act*

Determination
of certain
questions
as to child or
family.

36. Any of the following questions arising with respect to benefit under this Act (other than such a question as is mentioned in section 35(2) of this Act), that is to say—

- (a) whether any person is or was a child or is or was under the upper limit of the compulsory school age ;
- (b) whether any person has or had a family including a child or children, or is or was a child of some other person's family (but not whether any person is to be treated for the purpose of any provision of this Act as having a family as aforesaid, or as being a child of some other person's family) ;
- (c) whether any person could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, or but for certain facts would have been, or could have been treated as aforesaid as, a child of any other person's family ;
- (d) whether, for the purposes of the payment to a beneficiary of any benefit under this Act in respect of a child, the child in question is living with the beneficiary,

shall be determined in accordance with section 76 of the Insurance Act in like manner as a corresponding question arising under that Act.

Determination of disablement questions

Disablement
questions to
be determined
by medical
board or
medical appeal
tribunal.

37. Subject to the provisions of this Part of this Act, any of the following questions arising under this Act (hereafter in this Act referred to as the "disablement questions"), that is to say—

- (a) whether the relevant accident has resulted in a loss of faculty ;
- (b) at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment,

shall be referred to and determined by a medical board or medical appeal tribunal in accordance with the following provisions of this Part of this Act.

38.—(1) Medical boards for the purposes of this Act shall be appointed by the Minister and shall consist of two or more medical practitioners of whom one shall be appointed as chairman:

PART III
Constitution of
medical boards
and medical
appeal
tribunals.

Provided that the Minister may arrange with any other government department that any medical board consisting of two or more medical practitioners appointed or recognised by that department shall be a medical board for the purposes of this Act.

(2) Medical appeal tribunals for the purposes of this Act shall be appointed by the Minister and shall consist of a chairman and two medical practitioners.

(3) Subject as aforesaid the constitution of medical boards and medical appeal tribunals shall be determined by regulations.

39.—(1) The provisions of this section shall have effect where the case of a claimant for disablement benefit has in accordance with section 47 of this Act been referred by the insurance officer to a medical board for determination of the disablement questions.

Appeals from
medical
boards, and
references, to
medical appeal
tribunals.

(2) If the claimant is dissatisfied with the decision of the medical board, he may appeal in the prescribed manner and within the prescribed time and the case shall be referred to a medical appeal tribunal:

Provided that an appeal shall not lie against a provisional assessment of the extent of disablement before the expiration of two years from the date of the first reference of the case to a medical board under the said section 47, nor where the period taken into account by the assessment falls wholly within the said two years.

(3) If the Minister notifies the insurance officer within the prescribed time that he is of opinion that any decision of the medical board ought to be considered by a medical appeal tribunal, the insurance officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

40.—(1) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by a medical board if satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

Review of
decisions of
medical boards
and medical
tribunals.

PART III

(2) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by a medical board if the board are satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.

(3) Where, in connection with a claim for disablement benefit made after 25th August 1953, it is decided that the relevant accident has not resulted in a loss of faculty, the decision—

- (a) may be reviewed under subsection (2) of this section as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty ; but
- (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident has so resulted both for the time about which the decision was given and for any subsequent time ;

and for the purposes of this subsection a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date (not being an assessment made for the purpose of section 12(1)(a) or (b) of the Act of 1946 as originally enacted and having the effect that benefit is not payable) shall be treated as deciding that at that date the relevant accident has not resulted in a loss of faculty.

(4) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (2) of this section without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Part II of this Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.

(5) Subject to the foregoing provisions of this section, a medical board may deal with a case on a review in any manner in which they could deal with it on an original reference to them, and in particular may make a provisional assessment notwithstanding that the assessment under review was final ; and section 39 of this Act shall apply to an application for a review under this section and to a decision of a medical board in connection with such an application as it applies to an original claim for disablement benefit and to a decision of a medical board in connection with such a claim.

41.—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, regulations may provide that the disablement questions may, with the consent of the claimant, be referred to a single medical practitioner appointed by the Minister instead of to a medical board:

PART III
Reference to single doctor of questions as to temporary disablement.

Provided that the period to be taken into account by any assessment made by virtue of this section shall not exceed six months.

(2) Any decision on a reference made by virtue of this section shall have effect as if it were a decision of a medical board, and shall be subject to appeal and review, and may be referred for consideration to a medical appeal tribunal, accordingly.

(3) Regulations may make provision as to the procedure to be adopted where, on a reference under this section, the medical practitioner is of opinion that a final assessment can be made but that the period to be taken into account exceeds six months.

42.—(1) Subject as hereinafter provided, an appeal shall lie to the Industrial Injuries Commissioner from any decision of a medical appeal tribunal, being a decision given after 27th September 1959, on the ground that the decision is erroneous in point of law, at the instance of—

Appeals and references from medical appeal tribunals to Commissioner.

- (a) the claimant ; or
- (b) an association of employed persons of which the claimant was a member at the time of the relevant accident ; or
- (c) the Minister.

(2) No appeal shall lie under subsection (1) of this section without the leave of the medical appeal tribunal or of the Commissioner, and regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

(3) Where any question of law arises in a case before a medical appeal tribunal, the tribunal may refer that question to the Commissioner for his decision.

(4) On any such appeal or reference, the question of law arising for the decision of the Commissioner and the facts on which it arises shall be submitted for his consideration in the prescribed manner, and the medical appeal tribunal on being informed in the prescribed manner of his decision on the question of law shall give, confirm or revise their decision on the case accordingly.

PART III *Determination of claims and questions by insurance officers, local appeal tribunals or Commissioner*

Certain questions to be determined by insurance officers, local appeal tribunal or Commissioner.

43. Subject to the foregoing provisions of this Part of this Act, any claim for benefit and any question arising in connection with a claim for or award of benefit shall be determined in accordance with the provisions of sections 44 to 49 of this Act by an insurance officer, a local appeal tribunal constituted under section 51 of this Act or the Industrial Injuries Commissioner.

Submission of claims and questions to insurance officers.

44.—(1) Insurance officers for the purposes of this Act shall be appointed by the Minister, subject to the consent of the Treasury as to number, to act for such areas as the Minister directs.

(2) Subject to section 48(2)(b) of the Insurance Act (which provides that a claim for benefit under that Act may be treated as a claim, in the alternative, for benefit under this Act), all claims for benefit shall be submitted forthwith to an insurance officer and, subject to the provisions of this Part of this Act, all questions arising in connection with any such claim or with an award of benefit shall in the first instance be so submitted.

(3) The insurance officer shall forthwith take into consideration any claim or question submitted to him for examination as aforesaid.

(4) If on consideration of a claim or question the insurance officer is of opinion that no question arises to which section 35, 36 or 37 of this Act applies (hereafter in this Act referred to as a "special question"), then—

(a) if he is satisfied that the claim ought to be allowed in whole or in part or that the question ought to be determined in favour of the claimant or beneficiary, he may allow the claim or determine the question accordingly;

(b) in so far as he is not so satisfied, he may either—

(i) refer the claim or question (so far as is practicable within fourteen days from the date on which it was submitted to him for examination) to a local appeal tribunal for their decision; or

(ii) himself determine that an award cannot be made, or determine the question adversely to the claimant or beneficiary, as the case may be.

(5) Different aspects of the same claim or question may be submitted to different insurance officers under the foregoing provisions of this section, and for that purpose those provisions and the other provisions of this Part of this Act with respect to the determination of claims and questions shall have effect subject to any necessary modifications.

45.—(1) Where—

PART III

- (a) a claimant or beneficiary is dissatisfied with the insurance officer's decision ; or
- (b) a person's right to benefit is or may be, under Schedule 5 to this Act, affected by the insurance officer's decision in favour of the claimant or beneficiary,

Appeals to and decisions of local appeal tribunals.

he may appeal in the prescribed manner and within the prescribed time and the case shall be referred to a local appeal tribunal:

Provided that, where a special question has arisen in connection with the decision and has been determined as required by this Part of this Act, and the insurance officer certifies that the decision on that question is the sole ground of his decision, no appeal shall lie without the leave of the chairman of the local appeal tribunal.

(2) A local appeal tribunal shall—

- (a) record in writing all their decisions (whether on an appeal or on a reference from the insurance officer) ; and
- (b) include in the record of every decision a statement of their findings on questions of fact material to the decision.

46.—(1) Subject as hereinafter provided, an appeal shall lie to the Industrial Injuries Commissioner from any decision of a local appeal tribunal—

Appeals from local appeal tribunal to Commissioner.

- (a) at the instance of an insurance officer ;
- (b) at the instance of the claimant or beneficiary or a person whose right to benefit is or may be, under Schedule 5 to this Act, affected by the decision appealed against ; or
- (c) at the instance of an association of employed persons of which the claimant or beneficiary or, in a case relating to death benefit, the deceased was a member at the time of the relevant accident.

(2) An appeal to the Commissioner must be brought within three months from the date of the decision of the local appeal tribunal or such further period as may be prescribed or as the Commissioner may in any case for special reasons allow.

47.—(1) If on consideration of a claim or question the insurance officer is of opinion that a special question arises, he shall, subject to and in accordance with regulations—

Reference of special questions.

- (a) refer the special question for determination as required by this Part of this Act ; and
- (b) deal with any other questions as if the special question had not arisen.

PART III

(2) Where the case of a claimant for disablement benefit has been referred by the insurance officer to a medical board for determination of the disablement questions and, on that or any other subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be so referred not later than the end of the period taken into account by the provisional assessment.

(3) Regulations made under subsection (1) of this section may provide—

- (a) for authorising the postponement of the reference of or dealing with any question until after other questions have been determined ; and
- (b) for authorising (in cases where the determination of any question disposes of a claim or any part thereof) the making of an award, or of a decision that an award cannot be made, as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.

(4) Subsections (1) and (3) of this section shall apply to a local appeal tribunal and the Industrial Injuries Commissioner as they apply to the insurance officer, except that a local appeal tribunal or the Commissioner, instead of themselves or himself referring a special question for determination as required by this Part of this Act, shall direct it to be so referred by the insurance officer.

Declarations
that accident
is an industrial
accident.

48.—(1) Where, in connection with any claim for benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded and (subject to the provisions of subsection (3) of this section) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.

(2) Subject to subsection (3) of this section, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident, to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises, and the provisions of this Part of this Act shall apply for that purpose as if the question had arisen in connection with a claim for benefit.

(3) Notwithstanding anything in subsections (1) and (2) of this section, the insurance officer, local appeal tribunal or Industrial Injuries Commissioner, as the case may be, may refuse to

determine the question whether an accident was an industrial accident if satisfied that it is unlikely that it will be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an insurance officer or local appeal tribunal shall be subject to appeal to the local appeal tribunal or Commissioner, as the case may be.

PART III

(4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made.

(5) For the purposes of this section, an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—

- (a) it arises out of and in the course of his employment;
- (b) that employment is insurable employment; and
- (c) payment of benefit is not, under the provisions of Part II of this Act, precluded because the accident happened while he was outside Great Britain;

and references in the following provisions of this Act to an industrial accident shall be construed accordingly.

49.—(1) Any decision under this Act of an insurance officer, a local appeal tribunal or the Industrial Injuries Commissioner may be reviewed at any time by an insurance officer, or, on a reference from an insurance officer, by a local appeal tribunal, if—

Review of decisions of insurance officer, local appeal tribunal or Commissioner.

- (a) he or they is or are satisfied, and, in the case of a decision of the Commissioner, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was given; or
- (c) the decision was based on the decision of a special question and the decision of the special question is revised:

Provided that a decision on an appeal or reference under section 42 of this Act or a decision that an accident was not an industrial accident shall not be subject to review, and a decision that an accident was an industrial accident shall only be subject to review where the insurance officer or local appeal tribunal, as the case may be, is or are satisfied by fresh

PART III evidence that the decision was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

(2) Any decision given on a review under this section, and any refusal to review a decision under this section, shall be subject to appeal in like manner as an original decision.

General provisions as to determination of claims and questions

Supplementary provisions.

50.—(1) Except as provided by this Part of this Act, any decision of a claim or question in accordance with this Part of this Act shall be final.

(2) Regulations may provide—

- (a) for prescribing the procedure to be followed and the form of any document required in connection with the consideration and determination of claims and questions by the Minister, an insurance tribunal and insurance officers or in connection with the withdrawal of a claim ;
- (b) for authorising any insurance tribunal consisting of two or more members to proceed with any case, with the consent of the claimant, in the absence of any member ;
- (c) for giving the chairman or acting chairman of an insurance tribunal consisting of two or more members a second or casting vote where the number of members present is an even number ;
- (d) for extending and defining the functions of assessors for the purposes of this Part of this Act ;
- (e) for prescribing the evidence to be required in connection with the determination of a claim or of any question arising in connection with a claim or an award ;
- (f) for requiring or authorising the Minister to hold, or to appoint a person to hold, an inquiry in connection with the consideration of any question by the Minister ;
- (g) for empowering the Minister, an insurance tribunal or an insurance officer to refer to a medical practitioner for examination and report any question arising for his or their decision ;
- (h) for empowering the prescribed person by summons to require persons to attend and give evidence or produce documents on the consideration of any claim or question by an insurance tribunal or at any inquiry held by virtue of regulations under this subsection ;
- (i) for prescribing the manner in which and the time within which any question may be raised with a view to its

decision by the Minister under this Part of this Act, or with a view to the review of any decision under this Part of this Act.

PART III

(3) At any inquiry held by virtue of regulations under subsection (2) of this section, the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath, and the person holding the inquiry shall have power to administer oaths for the purpose.

(4) Regulations under subsection (2) of this section prescribing the procedure to be followed in cases before a local appeal tribunal or the Industrial Injuries Commissioner shall provide that any hearing shall be in public except in so far as the tribunal or Commissioner for special reasons otherwise directs, and it is hereby declared that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not.

(5) The Arbitration Act 1950 shall not apply to any proceedings under this Part of this Act, except so far as it may be applied in relation to England and Wales by regulations. 1950 c. 27.

(6) In this section, the expression "insurance tribunal" means the Industrial Injuries Commissioner, a local appeal tribunal, a medical appeal tribunal, a medical board or a single medical practitioner acting in place of a medical board.

(7) In its application to Scotland, subsection (2)(h) of this section shall have effect as if for the word "summons" there were substituted the word "order".

Provisions as to local appeal tribunals, Commissioner, etc.

51.—(1) A local appeal tribunal for the purposes of this Act shall consist of one or more members chosen to represent employers, with an equal number of members chosen to represent insured persons, and a chairman appointed by the Minister. Constitution of local appeal tribunals.

(2) Regulations may make provision that in such cases as may be prescribed one or more medical practitioners shall sit with the tribunal either as additional members or as assessors and for the appointment by the Minister of medical practitioners to act for this purpose either generally or for such cases or for such tribunals as the Minister may determine.

(3) Panels of persons chosen to represent employers and insured persons respectively shall be constituted by the Minister for such areas as the Minister may think fit, and the members of the local appeal tribunal to be chosen to represent employers and insured persons shall be selected from those panels in the prescribed manner.

PART III (4) Subject as aforesaid the constitution of local appeal tribunals shall be determined by regulations.

Industrial
Injuries
Commissioner
and deputy
Commissioners.

52.—(1) The Industrial Injuries Commissioner shall be appointed by Her Majesty, and Her Majesty may appoint for the purposes of this Act such number of deputy Commissioners as Her Majesty thinks fit.

(2) The Commissioner and deputy Commissioners shall be barristers or advocates of not less than ten years standing.

(3) Regulations may make provision for enabling any case to be dealt with—

(a) if it appears to involve a question of law of special difficulty, not by the Commissioner or any deputy Commissioner alone, but by a tribunal consisting of any three of them ;

(b) if it appears to involve a question of fact of special difficulty, wholly or partly with the assistance of an assessor or assessors specially qualified,

and for enabling both the powers aforesaid to be exercised in a case which involves questions both of law and of fact.

(4) Unless the context otherwise requires, any reference in this Act to the Industrial Injuries Commissioner shall include a reference to a deputy Commissioner and to any tribunal constituted in pursuance of regulations made by virtue of subsection (3) of this section.

(5) The provisions of section 79 of, and Schedule 6 to, the Insurance Act (which relate to the pension benefits of the National Insurance Commissioner and deputy Commissioners appointed under section 78 of that Act) shall have effect for the purposes of this Act as if for any reference in those provisions to the National Insurance Commissioner or to such a deputy Commissioner there were substituted a reference to the Industrial Injuries Commissioner or, as the case may be, a deputy Commissioner appointed under this section.

Remuneration
and expenses.

53.—(1) The Minister shall pay to the Industrial Injuries Commissioner and any deputy Commissioner appointed under this Act such salary or other remuneration as the Treasury may determine, and such expenses incurred in connection with the work of the Commissioner as may be so determined.

(2) The Minister may pay—

(a) to insurance officers, such salaries or other remuneration,

(b) to—

(i) persons appointed to sit as assessors with the Commissioner ;

(ii) the chairman and other members of local appeal tribunals, medical boards and medical appeal tribunals ;

(iii) medical practitioners sitting as assessors with a local appeal tribunal ; and

(iv) medical practitioners appointed to act instead of a medical board,

such remuneration and such travelling and other allowances,

(c) to persons required to attend—

(i) on the consideration of a case before the Commissioner or before any such tribunal or board or before a medical practitioner acting in place of a medical board ; or

(ii) at any inquiry held by virtue of regulations under this Part of this Act,

such travelling and other allowances, and

(d) such other expenses incurred in connection with the work of any such tribunal or board or any medical practitioner acting in place of a medical board or in connection with any such inquiry,

as the Minister with the consent of the Treasury may determine.

(3) In this section references to travelling and other allowances include references to compensation for loss of remunerative time :

Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this section.

54.—(1) The Minister may make regulations with respect to the payment of benefit during any period intervening between any application for the determination of a claim for benefit or any question arising in connection with such a claim or with an award and the final determination of the claim or question : Interim payments, arrears and repayments.

Provided that, except in the case of—

(a) a gratuity ; or

(b) benefit awarded for a period before the date of the award,

PART III benefit shall be payable in accordance with an award notwithstanding that an appeal against the award is pending and, save as provided by the following provisions of this section, shall be treated as having been duly paid and shall not be recoverable under the provisions of this Act or otherwise.

(2) Regulations under subsection (1) of this section may make provision for treating any benefit paid to any person by virtue of the regulations which it is subsequently decided is not payable as paid on account of any other benefit under this Act or the Insurance Act which it is decided was payable to him in respect of the same period.

(3) Where on review a decision under this Part of this Act is revised so as to make benefit by way of a pension or allowance payable, or to increase the rate of such benefit, then, subject to the provisions of this section, benefit shall be payable accordingly for the period from the date of the application for the review or from such earlier date as may be prescribed.

(4) Where benefit has been paid in pursuance of a decision which is reversed or varied on appeal, or is revised on a review, then, subject to subsections (5) and (7) of this section, the decision given on the appeal or review shall require repayment to the Industrial Injuries Fund of any benefit paid in pursuance of the original decision to the extent to which it—

- (a) would not have been payable if the decision on the appeal or review had been given in the first instance ; and
- (b) is not directed to be treated as paid on account of the benefit awarded on the decision on appeal or review, or as having been properly paid.

(5) A decision given on appeal or review shall not require repayment of benefit paid in pursuance of the original decision in any case where it is shown to the satisfaction of the person or tribunal determining the appeal or review that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(6) Regulations may provide—

- (a) for treating benefit paid to any person in pursuance of a decision which is afterwards revised on a review, or reversed or varied on an appeal, as paid on account of any other benefit which it is decided is or was payable to him in respect of the same accident or disease and, unless either benefit is a gratuity, in respect of the same period ;

- (b) without prejudice to any other method of recovery, for the deduction of any benefit required to be repaid by reason of a decision given on an appeal or review under this Part of this Act from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

PART III

(7) Where in the case of any sums paid by way of benefit before 26th February 1962—

- (a) the decision in pursuance of which they were paid was before that date reversed or varied on an appeal, or revised on a review, in such a way that those sums or any part of them would not have been payable if the decision on appeal or review had been given in the first instance ; and
- (b) that decision on appeal or review is itself reversed or varied on an appeal, or revised on a review, under this Act,

any question arising on the appeal or review under this Act as to the repayment of those sums or that part of them shall be determined in accordance with the provisions as to repayment in force immediately before that date ; and regulations made for the purposes of subsection (6)(a) of this section may provide for questions arising on any appeal or review under this Act which reverses or varies or, as the case may be, revises a decision given before the said date to be determined as aforesaid.

(8) Where, in the case of any person, any sum may by virtue of any provision of this Act be recovered by deduction from any payment under this Act, it may instead be recovered from him in whole or in part by deduction from benefit under the Insurance Act, and any amount so recovered shall be paid into the Industrial Injuries Fund.

(9) Where it has been decided by the Minister that contributions under this Act are not payable or are payable at a rate less than the maximum in respect of any person or any class of persons, and that decision is subsequently revised so as to make contributions payable, or payable at a higher rate, in respect of that person or that class of persons, contributions shall be so payable only as from the date on which the decision was so revised.

PART III (10) Nothing in this section shall prejudice—

(a) the provisions of Schedule 7 to the Insurance Act (which relates to the set-off of certain overpayments); or

(b) the provisions of sections 13 and 14 of the National Assistance Act 1948 with respect to the abatement of payments in respect of arrears of benefit.

1948 c. 29.

Savings for
Tribunals and
Inquiries Act
1958.
1958 c. 66.

55. The provisions of this Part of this Act shall have effect subject to the provisions of the Tribunals and Inquiries Act 1958.

PART IV

EXTENSION OF INSURANCE TO DISEASES ETC.

Industrial
diseases,
and industrial
injuries not
caused by
accident.

56.—(1) Subject to the provisions of this Part of this Act, a person who is under this Act insured against personal injury caused by accident arising out of and in the course of his employment shall be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of that employment and developed after 4th July 1948.

(2) A disease or injury may be prescribed for the purposes of this Part of this Act in relation to any insured persons if the Minister is satisfied that—

(a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and

(b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for the purposes of this Part of this Act may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force but not before 5th July 1948, shall be treated for the purposes of this Part of this Act, subject to any prescribed modifications, as if the regulations had been in force when he developed the disease or injury.

(4) Provision may be made by regulations for determining the time at which a person is to be treated for the purposes of this Act as having developed any disease or injury prescribed for the purposes of this Part of this Act, and the circumstances in which any such disease or injury is, where the person in question has previously suffered therefrom, to be treated as having recrudesced or as having been contracted or received afresh.

PART IV

(5) Nothing in this Part of this Act shall affect the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Act, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

57.—(1) The benefit payable under this Part of this Act in respect of a prescribed disease or injury, and the conditions for receipt of such benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject, however, to the power to make different provision by regulations as respects any matter which is to be prescribed and to the following provisions of this Part of this Act.

Application to prescribed diseases and injuries of provisions as to benefit and claims.

(2) Regulations may provide, in relation to prescribed diseases and injuries, for modifying the provisions of Part II of this Act relating to injury benefit and disablement benefit and for adapting references in the said Part II to accidents, and shall provide for applying in relation to claims for benefit under this Part of this Act in respect of a prescribed disease or injury, and in relation to questions arising in connection therewith or with an award of benefit, the provisions of Part III of this Act, subject to any prescribed additions or modifications.

(3) Without prejudice to the generality of subsection (2) of this section, regulations thereunder may in particular include provision—

(a) for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury ;

(ii) not to be due to the nature of a person's employment unless he was employed in some

PART IV

prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury ;

- (b) for the establishment of special medical boards and the appointment of medical officers for the purposes of the regulations (including, in the case of any such board, the purposes for which medical boards and medical appeal tribunals are established under Part III of this Act) ;
- (c) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by any such board or officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the Industrial Injuries Fund and recovery as sums due to that Fund ;
- (d) for such matters as appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of the foregoing provisions of this section.

(4) The Minister may pay such remuneration to any member of a medical board established by virtue of this section and to any medical officer appointed by virtue thereof, and such travelling and other allowances (including, subject as hereinafter provided, compensation for loss of remunerative time) to any such member or officer, and such other expenses in connection with any such board or with the work of any such officer, as the Minister, with the consent of the Treasury, may determine :

Provided that compensation for loss of time shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this subsection.

Special provisions as to certain respiratory diseases.

58.—(1) As respects pneumoconiosis, regulations may further provide—

- (a) that, where any person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of this Part of this Act as if they were effects of the pneumoconiosis ;
- (b) for requiring persons to be medically examined before, or within a prescribed period after, becoming employed in any occupation in relation to which pneumoconiosis is prescribed, and to be medically examined periodically while so employed, and to furnish information required for the purposes of any such examination ;

- (c) for suspending from employment in any such occupation, and in such other occupations as may be prescribed, persons found on such an examination—
- (i) to be suffering from pneumoconiosis or tuberculosis ; or
- (ii) to be unsuitable for such employment, having regard to the risk of pneumoconiosis and such other matters affecting their susceptibility thereto as may be prescribed ;
- (d) for the payment (for any period not exceeding six months) of special benefit (not exceeding the injury benefit to which he would be entitled in respect of a personal injury by accident) to any person who is found on such an examination to be suffering from pneumoconiosis and by reason thereof suspended from employment as aforesaid and is not otherwise entitled to benefit in respect of the pneumoconiosis ;
- (e) for the disqualification for the receipt of benefit in respect of pneumoconiosis of any person who fails without good cause to submit himself to any such examination or to furnish information required by the regulations for the purposes thereof or who engages in any employment from which he has been suspended as aforesaid ;
- (f) for requiring employers—
- (i) to provide facilities for such examinations ;
- (ii) not to employ in any occupation a person who has been suspended as aforesaid from employment therein or who has failed without good cause to submit himself to such an examination ;
- (iii) to give to such medical board or officer as may be prescribed the prescribed notice of the commencement of any prescribed industry or process ;
- (g) for the recovery on summary conviction of monetary penalties in respect of any contravention of or failure to comply with any such requirement as is mentioned in paragraph (f) of this subsection, so, however, that such penalties shall not exceed five pounds for every day on which the contravention or failure occurs or continues ;
- (h) for such matters as appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of the foregoing provisions of this subsection.

PART IV

PART IV (2) Unless otherwise provided by regulations, a person shall not be entitled to injury or disablement benefit under this Part of this Act in respect of byssinosis except where he is totally and permanently incapacitated for work as the result thereof and benefit shall not be payable in respect thereof except in the case of men.

(3) In this section the expression "pneumoconiosis" means fibrosis of the lungs due to silica dust, asbestos dust or other dust, and includes the condition of the lungs known as dust-reticulation.

PART V

FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

Finance

Industrial Injuries Fund. 59.—(1) The Industrial Injuries Fund shall continue to be maintained under the control and management of the Minister, and—

(a) there shall be paid into that Fund all contributions payable under this Act by employers and insured persons and out of moneys provided by Parliament ;

(b) there shall be paid out of that Fund—

1948 c. 29. (i) all claims for benefit and any other payments which under this Act or under section 13(2) of the National Assistance Act 1948 are payable out of that Fund ;

(ii) such sums as are necessary to make good to the National Insurance Fund or the Treasury, as the case may be, the amount by which any payments to be made out of the Industrial Injuries Fund are reduced by reference to sums borne by the National Insurance Fund or by moneys provided by Parliament, as the case may be, by virtue of Schedule 7 to the Insurance Act.

(2) Accounts of the Industrial Injuries Fund shall be prepared in such form, in such manner and at such times as the Treasury may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.

(3) Any moneys forming part of the Industrial Injuries Fund may from time to time be paid over to the National Debt Commissioners and by them invested, in accordance with such directions as may be given by the Treasury, in any securities which are for the time being authorised by Parliament as investments for savings bank funds.

(4) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of the Industrial Injuries Fund are for the time being invested.

60.—(1) The Government Actuary shall—**PART V**

- (a) review the operation of this Act during the period of five years ending with 31st March in 1969 and in every fifth year thereafter and, on each such review, make a report to the Treasury on the financial condition of the Industrial Injuries Fund and the adequacy or otherwise of the contributions payable under this Act to support the benefits payable thereunder ;
- (b) make an interim review of, and report to the Treasury on, the operation of this Act during the period of twelve months ending with 31st March in every year other than the year in which the period to be covered by a review and report under the foregoing paragraph ends :

Reports by
Government
Actuary.

Provided that the Treasury may at any time direct that the period to be covered by a review and report under paragraph (a) of this subsection shall be reduced and that the making of that and subsequent reviews and reports under that paragraph shall be accelerated accordingly, and may dispense with the making of a review and report under paragraph (b) thereof in any year.

(2) The Treasury shall lay before Parliament a copy of every report made to them under this section.

(3) Any function under this section of the Government Actuary may be performed by the Deputy Government Actuary.

61.—(1) Any expenses incurred by the Minister or any other government department (except the Postmaster General) in carrying this Act or section 89 of the Act of 1946 into effect, including—

Expenses of
Minister and
other
government
departments.

- (a) such part of the sums referred to in section 85(2) of the Insurance Act as is not attributable to the execution of the Insurance Act or the Family Allowances Act ;
- (b) the amount of any payments under section 80 of the Insurance Act so far as estimated by the Minister to be attributable to the operation of section 36 of this Act ;
- (c) the amount of any expenses incurred in carrying into effect section 15 of the Insurance Act which are estimated by the Minister to be attributable to the collection by virtue of section 67(3) of this Act of contributions under this Act ;
- (d) any expenses attributable to any of the following provisions of this Act, that is to say, sections 3(6) and (7), 35(2) to (4), 36, 52(5), 63, 65, 67(2), 68 and 82(2); and
- (e) any expenses which under section 9(2) of the Friendly Societies Act 1955 are to be treated as expenses incurred in carrying this Act into effect,

1955 c. 19.
(4 & 5 Eliz. 2.)

PART V shall, unless required by or under some provision of this Act to be paid and borne in some other manner, be paid out of moneys provided by Parliament.

(2) There shall be paid to the Treasury out of the Industrial Injuries Fund, at such times and in such manner as the Treasury may direct, such sum as the Minister may estimate in accordance with subsections (3) and (4) of this section and with directions given by the Treasury to be the amount of the expenses incurred as mentioned in subsection (1) of this section.

(3) Subject to subsection (4) of this section, in estimating for the purposes of subsection (2) of this section the expenses incurred as mentioned in subsection (1) thereof, there shall be included—

- (a) an amount determined by the Treasury with the consent of the Minister in respect of the use of any premises belonging to the Crown and used for the purposes of this Act, regard being had in making that determination to the rental value of the premises ;
- (b) such amount in respect of any pension benefits which will or may become payable in respect of a person's service as Industrial Injuries Commissioner or deputy Commissioner under this Act or in respect of a person's employment as officer, inspector or servant for the purposes of this Act as in the opinion of the Treasury approximately represents the amount of the accruing liability for the sums which will become payable out of moneys provided by Parliament for those pension benefits, after taking into account that person's contributions, if any ;
- (c) so much of the amount referred to in section 85(5)(a) of the Insurance Act (which makes with respect to service as National Insurance Commissioner, or deputy Commissioner under that Act or employment as officer, inspector or servant for the purposes of that Act provision corresponding to paragraph (b) of this subsection) as is determined by the Minister to be attributable to the operation of section 36 of this Act.

(4) There shall be left out of account in estimating for the purposes of subsection (2) of this section the expenses incurred as mentioned in subsection (1) thereof any sums paid for pension benefits in respect of a person's service as Industrial Injuries Commissioner, National Insurance Commissioner or deputy Commissioner under this Act or the Insurance Act.

(5) In subsections (3)(b) and (4) of this section, the expression "pension benefits" includes benefits payable on retirement or death by way of lump sum or gratuity, and benefits payable in respect of a person's service or employment to other persons by way of widow's or orphan's pension or otherwise.

Administration

PART V

62.—(1) There shall be an Industrial Injuries Advisory Council, which shall consist of a chairman appointed by the Minister and such number of other members so appointed as the Minister may determine, including an equal number of persons appointed by him, after consultation with such organisations as he thinks fit, to represent employers and insured persons respectively.

Industrial
Injuries
Advisory
Council.

(2) Subject to subsection (3) of this section, where the Minister proposes to make any regulations under this Act, or proposes to make for the purposes of paragraph 2 of Schedule 7 to the Insurance Act regulations relating to benefit under this Act, he shall (unless it appears to him that by reason of the urgency of the matter it is inexpedient so to do) refer the proposals, in the form of draft regulations or otherwise, to the said Council for consideration and advice; and the Minister may from time to time refer to that Council for consideration and advice such questions relating to this Act as he thinks fit.

(3) Subsection (2) of this section shall not apply—

(a) to regulations under section 83 of this Act, without prejudice, however, to the power of the Minister to refer any proposal to make such regulations to the said Council for consideration and advice;

(b) to regulations made for the purpose only of consolidating other regulations revoked thereby.

(4) The Minister may pay—

(a) to the chairman and other members of the said Council such salaries or other remuneration,

(b) to persons who are not members of that Council but who at the invitation of the Council are joined with members of the Council as advisers at a meeting of the Council or a committee thereof held to consider questions on which they are specially qualified, such fees, and

(c) to the chairman and other members of that Council and to persons attending meetings at the request of the Council or attending meetings of any committee of the Council at the request of the Council or of the committee, such expenses and travelling and other allowances,

as the Minister may with the consent of the Treasury determine; and any payment under paragraph (a) of this subsection may be made either in lieu of or in addition to any payment to the recipient under paragraph (c) thereof, and any payment under paragraph (b) of this subsection may be made either in lieu of or in addition to any expenses or travelling or other allowances payable to the recipient apart from that paragraph.

PART V
Local
advisory
committees.

63. Section 89 of the Insurance Act (which enables regulations to make provision for referring to local advisory committees questions bearing upon the administration of that Act and for incidental matters) shall apply to questions bearing upon the administration of this Act as it applies to questions bearing upon the administration of that Act.

Inspectors.

64.—(1) For the purposes of this Act, the Minister may appoint such inspectors as he may with the consent of the Treasury determine, and may pay to them such salaries or remuneration as may be so determined.

(2) An inspector appointed under this Act shall, for the purposes of the execution of this Act, have power to do all or any of the following things, namely—

- (a) to enter at all reasonable times any premises or place liable to inspection under this section ;
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act or any enactment re-enacted thereby are being or have been complied with in any such premises or place or for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for benefit was or may have been received or contracted ;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act on which he may reasonably require information, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an insured person or employed by the employer of any insured person, and to require every such person to be so examined ;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.

(3) The occupier of any premises or place liable to inspection under this section and any person who is or has been employing any insured person, and the servants and agents of any such occupier or other person, and any insured person, shall furnish to any inspector all such information, and produce for his inspection all such documents, as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person, or whether benefit is or was payable to or in respect of any person.

(4) If any person—

- (a) wilfully delays or obstructs an inspector in the exercise of any power under this section ; or

(b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this section,

PART V

he shall be liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence under this subsection, and not exceeding fifty pounds in the case of a second or subsequent such offence:

Provided that no one shall be required under this section to answer any question or to give any evidence tending to incriminate himself.

(5) For the purposes of subsection (4) of this section, an offence shall be deemed not to be a first offence if the offender has previously been found guilty of an offence under section 90(4) of the Insurance Act or under section 62(4) of the Act of 1946 or section 49(4) of the Insurance Act of 1946.

(6) Every inspector shall be furnished with a certificate of his appointment and on applying for admission to any premises or place for the purposes of this Act shall, if so required, produce the said certificate.

(7) The premises and places liable to inspection under this section are any premises or places where an inspector appointed under this Act has reasonable grounds for supposing that any insured persons are employed, or that any injury or disease has been or may have been received or contracted which has given or may give rise to a claim for benefit, except that they do not include any private dwelling house not used by or by permission of the occupier for the purposes of a trade or business.

(8) Where any premises or place are or is liable to be inspected by inspectors or officers appointed or employed by, or are or is under the control of, some other government department, the Minister may make arrangements with that department for any of the powers and duties of inspectors under this section being carried out by inspectors or officers appointed or employed by that department, and, where such an arrangement is made, such inspectors and officers shall have all the powers of an inspector under this section.

65. The provisions (other than subsection (5)(b)) of section 91(2) to (5) of the Insurance Act (which make provision for the obtaining of birth, marriage or death certificates for the purposes of that Act) shall apply for the purposes of this Act as they apply for the purposes of that Act. Proof of age, marriage or death.

66. Stamp duty shall not be chargeable upon such documents used in connection with business under this Act as are specified in Schedule 6 to this Act. Exemption from stamp duty.

PART V

Regulations
as to
payment of
contributions
by stamps,
etc.

Insurance stamps and cards

67.—(1) Subject to the provisions of this Act, of section 95 of the Insurance Act, and of any regulations under section 14 of the Insurance Act made by virtue of subsection (1)(a) or (d) thereof or by virtue of subsection (3) of this section, regulations may provide for any matters incidental to the payment and collection of contributions under this Act, and in particular—

- (a) for payment of contributions by means of adhesive or other stamps (in this Act referred to as “insurance stamps”) affixed to or impressed upon cards or otherwise, and for regulating the manner, times, and conditions in, at and under which insurance stamps are to be affixed or impressed or payments are otherwise to be made ;
- (b) for the issue, sale, replacement, custody, production and delivery up of such cards ;

and any such regulations relating to the time of payment of contributions may require or authorise an employer, where an insured person’s remuneration is paid in advance and in such other cases as may be prescribed, to pay contributions in advance and in connection therewith may make provision for the event of contributions so paid proving not to be payable.

(2) Subsections (2) and (3) of section 14 of the Insurance Act (which relate to the payment of contributions by stamps or other means) shall apply in relation to insurance stamps within the meaning of this section as they apply to insurance stamps within the meaning of that section and in relation to regulations under subsection (1) of this section as they apply in relation to regulations under that section, so, however, that any fees prescribed under the said subsection (3) by virtue of this subsection shall be determined by the Minister with the concurrence of the Treasury.

(3) Section 15 of the Insurance Act (which relates to the combination of the payment and collection of contributions with that of income tax) shall have effect as if the reference in subsection (2)(a) of that section to contributions under that Act other than graduated contributions included a reference to contributions under this Act.

Legal proceedings, etc.

General
provisions as
to offences,
penalties
and legal
proceedings.

68.—(1) The following provisions of the Insurance Act, that is to say—

- (a) subject to subsection (2) of this section, section 93 (which contains provisions as to offences and penalties under that Act) ;

- (b) section 94 (which contains general provisions as to prosecutions under that Act); and
- (c) section 96 (which relates to civil proceedings to recover sums due to the National Insurance Fund),

PART V

shall have effect for the purposes of this Act as if in those provisions references to that Act, to insurance stamps, regulations or inspectors, or to the National Insurance Fund, included references respectively to this Act, to insurance stamps, regulations or inspectors under this Act, and to the Industrial Injuries Fund.

(2) Subsection (2) of the said section 93 shall have effect for the purposes of this Act subject to the express provisions of this Act and shall not apply to a contravention of or failure to comply with regulations under this Act requiring any person to submit himself to medical treatment.

69.—(1) In any case where an employer has been convicted of the offence under section 3(4) of this Act of failing to pay a contribution at or within the time prescribed for the purpose and the contribution remains unpaid at the date of the conviction, he shall be liable to pay to the Industrial Injuries Fund a sum equal to the amount which he failed to pay.

Recovery of contributions on prosecutions under Act.

(2) In any case where—

(a) an employer is convicted of—

(i) an offence under section 93(1)(b) of the Insurance Act as applied by section 68 of this Act; or

(ii) an offence under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made by virtue of section 67(2) of this Act; or

(iii) an offence under regulations made under this Act; and

(b) the evidence on which he is convicted shows that the employer, for the purpose of paying any contribution which he was liable to pay, has affixed to any insurance card any used insurance stamp within the meaning of the said section 93; and

(c) the contribution in respect of which the stamp was affixed remains unpaid at the date of the conviction, the employer shall be liable to pay to the Industrial Injuries Fund a sum equal to the amount of that contribution.

(3) On any such conviction as is mentioned in subsection (1) or (2) of this section, if notice of intention to do so has been served with the summons or warrant, evidence may be given—

(a) of the failure on the part of the employer to pay at or within the time prescribed for the purpose other contributions in respect of the same person during the two years preceding the date of the offence; and

PART V

(b) in the case of any such conviction as is mentioned in subsection (1) of this section, of the failure on his part so to pay other contributions during those two years in respect of any other person employed by him ;

and on proof of such failure the employer shall be liable to pay to the Industrial Injuries Fund a sum equal to the total of all the contributions which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

1957 c. 29.

(4) Where in England or Wales an employer charged with such an offence as is mentioned in subsection (1) or (2) of this section is convicted of that offence in his absence under section 1(2) of the Magistrates' Courts Act 1957, then if—

(a) it is proved to the satisfaction of the court, on oath or in the prescribed manner, that such a notice as is mentioned in subsection (3) of this section has been duly served specifying the other contributions in respect of which the prosecutor intends to give evidence ; and

(b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,

the said subsection (3) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

1948 c. 58.
1949 c. 94.

(5) Nothing in section 12(1) of the Criminal Justice Act 1948 or section 9(1) of the Criminal Justice (Scotland) Act 1949 (which relate to the effect of probation and discharge) shall affect the operation of the foregoing provisions of this section in relation to any conviction of an employer of such an offence as is mentioned in subsection (1) or (2) of this section.

(6) In England or Wales, any sum ordered to be paid to the Industrial Injuries Fund under this section shall be recoverable as a penalty.

(7) Any sum paid by an employer under the foregoing provisions of this section shall be treated as a payment in satisfaction of the unpaid contributions, and the insured person's portion of those contributions shall not be recoverable by the employer from the insured person.

(8) If the employer, being a body corporate, fails to pay to the Industrial Injuries Fund any sum which the employer has been ordered to pay under this section, that sum, or such part thereof as remains unpaid, shall be a debt due to the Industrial Injuries Fund jointly and severally from any directors of the

body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contribution or contributions in question.

PART V

(9) Nothing in this section shall be construed as preventing the Minister from recovering any sums due to the Industrial Injuries Fund by means of civil proceedings.

(10) In its application to Scotland, subsection (3) of this section shall have effect as if for the reference to the summons or warrant there were substituted a reference to the complaint.

70.—(1) In any proceedings—

- (a) for an offence under this Act ; or
- (b) involving any question as to the payment of contributions ; or
- (c) for the recovery of any sums due to the Industrial Injuries Fund,

Decisions to be conclusive for purposes of proceedings under Act.

the decision of the Minister on any question arising under this Act such as is mentioned in section 35(1)(a) to (e) thereof shall, unless an appeal therefrom by virtue of section 35(3) of this Act is pending or the time for so appealing has not expired, be conclusive for the purpose of those proceedings.

(2) If such a decision of the Minister has not been obtained and the decision of any such question is necessary for the determination of the proceedings, the question shall be referred to the Minister for determination in accordance with Part III of this Act.

(3) Where any such appeal is pending, or the time for so appealing has not expired, or where any question has been referred to the Minister as aforesaid, the court dealing with the case shall adjourn the proceedings until such time as the final decision of the question has been obtained.

PART VI

MISCELLANEOUS AND GENERAL

Prevention of accidents and after-care of injured persons

71.—(1) The Minister may promote research into the causes and incidence, and methods of prevention, of accidents, injuries and diseases against which persons are insured under this Act or which it is contemplated might be prescribed for the purpose of Part IV of this Act, either by himself employing persons to conduct such research or by contributing to the expenses of, or otherwise assisting, other persons engaged in such research.

(2) The Minister may pay to persons employed by him as aforesaid such salaries or remuneration, and such travelling and other allowances, as he may with the consent of the Treasury determine.

PART VI
Vocational
training,
industrial
rehabilitation,
etc.
1944 c. 10.

72.—(1) The Minister may make arrangements with the Minister of Labour for securing that persons entitled to disablement benefit may take full advantage of vocational training courses, industrial rehabilitation courses, and facilities in connection with employment or work under special conditions, provided under the Disabled Persons (Employment) Act 1944, and may make towards the cost of providing those courses and facilities such contributions as he may, with the consent of the Treasury, determine.

(2) Any contribution under the foregoing subsection shall be paid out of the Industrial Injuries Fund.

Provision of
artificial
limbs, etc.

73.—(1) The Minister may make arrangements to secure the provision and maintenance, free of charge or at a reduced charge, of equipment and appliances for any person who, by reason of the loss of a limb or otherwise, is in need of them as the result of any injury or disease against which he was insured under this Act, and in connection with the provision or maintenance of any equipment or appliances for any person under this section may pay to that person such expenses incurred by him as the Minister may determine.

(2) Any expenses incurred by the Minister under any such arrangements or otherwise under this section shall be paid out of the Industrial Injuries Fund.

Special classes of persons

Persons
employed
by or under
the Crown.

74. This Act shall apply to persons employed by or under the Crown to whom this Act would apply if the employer were a private person, subject however to such modifications as may be made therein by Order in Council for the purpose of adapting the provisions of this Act to the case of such persons:

Provided that employment in the naval, military or air force service of the Crown and any other prescribed employment under the Crown shall be excepted employments.

Mariners and
airmen.

75.—(1) The Minister may make regulations modifying in such manner as he thinks proper the provisions of this Act in their application in relation to—

- (a) persons who are insured persons by virtue of any of paragraphs 2 to 7 of Part I of Schedule 1 to this Act (hereafter in this section referred to as “mariners”);
- (b) persons who are insured by virtue of paragraph 8, 9 or 10 of the said Part I (hereafter in this section referred to as “airmen”).

(2) Any such regulations may in particular, without prejudice to the generality of the foregoing subsection, provide—

- (a) for excepting from insurance mariners or airmen who neither are domiciled nor have a place of residence in

PART VI

the United Kingdom or for exempting from payment of contributions any such mariner or airman, and for excluding from benefit any mariner or airman who is so exempted ;

- (b) in the case of a mariner who is employed as master or a member of the crew of a fishing vessel and is remunerated in whole or in part by a share in the profits or gross earnings of the fishing vessel, for the removal of the restriction of the right of deducting or otherwise recovering the employer's contribution in respect of him ;
 - (c) for the payment of benefit to mariners and airmen in respect of accidents happening, and prescribed diseases and injuries contracted or received, while they are outside Great Britain ;
 - (d) for treating as accidents arising out of and in the course of the employment of a mariner or airman accidents happening while he is proceeding to or from his ship, vessel, or aircraft or in any other prescribed circumstances ;
 - (e) for the taking of evidence, for the purpose of any claim by a mariner or airman to benefit—
 - (i) in any country which is, or which at the date when regulations with respect to that country were first made under this section or section 77 of the Act of 1946 was, part of Her Majesty's dominions, before a judge or magistrate or by a superintendent within the meaning of the Merchant Shipping Act 1894 ; 1894 c. 60.
 - (ii) in any other country, by a British consular officer ;
 - (f) for withholding any benefit that may be payable to a mariner for any period during which the owner of his ship or vessel is under a statutory obligation to pay him wages ;
 - (g) for enabling a mariner or airman to authorise the payment of the whole or any part of any benefit to which he is or may become entitled to such of his dependants as may be prescribed.
- (3) Where a mariner is exempt from payment of contributions by virtue of this section, the contributions payable in respect of him by his employer—
- (a) shall not be taken into account for the purpose of estimating the contributions to be paid out of moneys provided by Parliament ;

PART VI

(b) shall be administered and applied in such manner and for such purposes as may be prescribed ;

and regulations made for the purposes of paragraph (b) of this subsection may provide for applying, with or without modifications, to any fund into which those contributions are to be paid any provisions of Part V of this Act relating to the recovery of contributions as they apply to the Industrial Injuries Fund.

(4) Any regulations making the provision mentioned in subsection (2)(c) of this section may be extended—

(a) so far as they relate to mariners, to any person who, in the course of his employment as an apprentice pilot, is on board any ship or vessel, whether or not he is a mariner within the meaning of this section ;

(b) so far as they relate to airmen, to any person who, in the course of insurable employment, is on board an aircraft on a test flight starting in Great Britain, whether or not he is an airman within the meaning of this section.

Persons employed in connection with exploitation or exploration of continental shelf.
1964 c. 29.

76. The Minister may by regulations make provision—

(a) for treating as insurable employment for the purposes of this Act any prescribed employment which is employment in connection with the exploitation of the resources mentioned in section 1(1) of the Continental Shelf Act 1964 or with the exploration of the sea bed and subsoil in any area designated under section 1(7) of that Act ; and

(b) for modifying the provisions of this Act in their application in relation to persons who are insured persons by virtue of this section and in particular, but without prejudice to the generality of this paragraph, for treating accidents arising out of and in the course of any such employment as happening while those persons are in Great Britain and for treating as accidents so arising accidents happening while those persons are proceeding to or from their work or in any other prescribed circumstances.

Police.
1964 c. 48.
1956 c. 26.
1948 c. 24.

77. This Act, in its application to members of a police force within the meaning of the Police Act 1964 or the Police (Scotland) Act 1956 and persons employed in any other prescribed employment, being employment in respect of which benefits are payable under the Police Pensions Act 1948 as extended by or under any enactment, shall have effect subject to such modifications as may be prescribed.

Children under school leaving age.

78.—(1) A child and his employer shall be exempt from payment of contributions while the child is under the upper limit of the compulsory school age.

(2) A child under the upper limit of the compulsory school age shall not be entitled to injury benefit except in so far as may be provided by regulations. PART VI

79.—(1) In relation to—

- Persons to be treated as employers in certain cases.
- (a) any person who is an insured person otherwise than by virtue of a contract of service or apprenticeship ; or
 - (b) any other insured person employed for the purpose of any game or recreation and engaged or paid through a club ; or
 - (c) any other insured person in whose case it appears to the Minister there is special difficulty in the application of all or any of the provisions of this Act relating to employers,

regulations may provide that a person prescribed by the regulations shall be treated for the purposes of this Act as the insured person's employer.

(2) Subject to the provisions of any regulations made under the foregoing subsection, where an insured person is employed by more than one person in any contribution week, the first person employing him in that week or such other person as may be prescribed shall be deemed to be his employer for the purpose of the provisions of this Act relating to contributions.

(3) Where insured persons work under the general control and management of some person other than their immediate employer, regulations may provide—

- (a) that that other person shall be treated as the employer for the purposes of this Act ; and
- (b) for allowing that other person to deduct the amount of any contributions (other than employer's contributions) which he may become liable to pay from any sums payable by him to the immediate employer ; and
- (c) for enabling the immediate employer to recover from the insured persons the like sums and in the like manner as if he were liable to pay contributions.

Additional rights to benefit

80.—(1) Where a claim for benefit is made under this Act in respect of any accident or of any prescribed disease or injury, or an application is made thereunder for a declaration that any accident was an industrial accident, or for a corresponding declaration as to any prescribed disease or injury, the Minister may direct that for the purposes of this Act the relevant employment shall, in relation to that accident, disease or injury, be treated as having been insurable employment, notwithstanding that, by reason of a contravention of or non-compliance with

Accidents in course of illegal employment, etc.

PART VI

some provision contained in or having effect under any enactment passed for the protection of employed persons or of any class of employed persons, the contract purporting to govern the employment was void or the employed person was not lawfully employed therein at the time when or in the place where the accident happened or the disease or injury was contracted or received.

(2) In this section the expression "relevant employment" means, in relation to an accident, the employment out of and in the course of which the accident arises and, in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

Extension of
unemploy-
ability
supplement
and
attendance
allowance to
past cases.

81.—(1) This section applies to any person who is or has been at any time after 4th July 1948—

- (a) entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, or under any contracting out scheme duly certified thereunder ; or
- (b) entitled to payments on account of an injury pension under or by virtue of any enactment in respect of an injury received or disease contracted by him before 5th July 1948 or in respect of his retirement in consequence of such an injury or disease ;

and in this subsection—

- (i) the expression "Workmen's Compensation Acts" means the Workmen's Compensation Acts 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act 1925, or the enactments repealed by the Workmen's Compensation Act 1906 ;
- (ii) the expression "injury pension" includes any pension or similar benefit payable in respect of a person's employment or former employment, being a pension or benefit which would not be payable or would be payable at a less rate but for an injury or disease referable to that employment.

1925 c. 84.
1906 c. 58.

(2) Regulations may provide—

- (a) for conferring on persons to whom this section applies who as a result of the injury or disease in question are, or could for the purpose of the provisions of this Act relating to unemployability supplement be treated as being, incapable of work and likely to remain permanently so incapable the like right to payments under this Act by way of unemployability supplement and the like right to payments under this 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 ;

(b) for conferring on persons to whom this section applies who as the result of the injury or disease in question require constant attendance the like right to payment under this Act in respect of the need of constant attendance as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of one hundred per cent. ;

PART VI

(c) for applying in relation to payments under this section the provisions of this Act relating to benefit and to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to an unemployability supplement, to an increase of a disablement pension in respect of a child or adult dependant, or to an increase of a disablement pension in respect of the need of constant attendance, as the case may be, subject to any additions or modifications.

(3) All payments under this section shall be paid out of the Industrial Injuries Fund.

82.—(1) Any body of persons claiming to represent, or to be entitled to be treated as representing, insured persons of any class and their employers may submit to the Minister a scheme (hereafter in this Act referred to as a “supplementary scheme”) for supplementing the rights conferred on those insured persons by this Act, whether by providing for additional payments in cases for which benefit is provided by this Act, or by providing for payments in other cases, or otherwise.

Supplementary schemes.

(2) Sections 46 and 47 of the Insurance Act (except subsection (6) of the said section 46) shall apply to a supplementary scheme submitted under subsection (1) of this section as they apply to a supplementary scheme submitted under section 46(1) of that Act.

(3) The provisions of this Act other than this section, and the provisions of any regulations, shall not, except in so far as they are applied by a supplementary scheme, apply to or have effect in relation to or for the purposes of the scheme.

Corresponding systems in other countries

83.—(1) The Minister may, with the consent of the Treasury, make reciprocal arrangements with the appropriate authority in Northern Ireland for co-ordinating the two systems of insurance established respectively by this Act and any legislation for similar purposes passed by the Parliament of Northern Ireland so as to secure that they operate, to such an extent as may be provided by the arrangements, as a single system.

Northern Ireland.

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(2) There shall be a Joint Authority (hereafter in this Act referred to as "the Joint Authority") consisting of the Minister and of the appropriate authority in Northern Ireland, and the Joint Authority shall have power, in connection with the arrangements—

(a) to make any necessary financial adjustments between the Industrial Injuries Fund and any fund established under the Northern Irish legislation; and

(b) to discharge such other functions for the co-ordination of the said two systems as may be provided by the arrangements.

(3) The provisions of Schedule 7 to this Act shall have effect with respect to the constitution of the Joint Authority and other matters relating thereto.

(4) The Minister may make regulations for giving effect in Great Britain to any such arrangements, and any such regulations may provide—

(a) that this Act shall have effect in relation to persons affected by the arrangements subject to such modifications and adaptations as may be specified in the regulations, including provision—

(i) for securing that acts, omissions and events having any effect for the purposes of the Northern Irish legislation shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);

(ii) for determining, in cases where rights accrue both under this Act and under the Northern Irish legislation, which of those rights shall be available to the person concerned;

(iii) for applying for the purposes of the Northern Irish legislation the following provisions of this Act, that is to say, sections 3(4), 4(2), 26, 28, 64(2) to (7), 65, 66, 68, 69 and 70, and the provisions of section 118(1)(f) of the Bankruptcy (Scotland) Act 1913, section 33(1)(f) of the Bankruptcy Act 1914 and section 319(1)(e) of the Companies Act 1948; and

(b) that the Joint Authority shall be substituted for the Minister in relation to the making of any regulations (other than regulations providing for such a substitution).

(5) In connection with any such legislation as is mentioned in subsection (1) of this section, any limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act 1920 shall not apply in so far as it would

1913 c. 20.

1914 c. 59.

1948 c. 38.

1920 c. 67.

preclude that Parliament from enacting a provision corresponding to some provision of this Act.

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(6) In this section the expression “appropriate authority” means such authority as may be specified in the Northern Irish legislation.

84.—(1) For the purpose of giving effect to any agreement with the government of any country outside the United Kingdom providing for reciprocity in matters relating to the payment of compensation or benefit to employed persons in respect of industrial or similar injuries, it shall be lawful for Her Majesty by Order in Council to make provision for modifying or adapting this Act in its application to cases affected by the agreement.

Countries
outside
United
Kingdom.

(2) The modifications of this Act which may be made by virtue of the foregoing subsection shall include provision—

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Act and under the law of the said country, which of those rights shall be available to the person concerned;
- (c) for applying for the purposes of the law of the said country the provisions referred to in section 83(4)(a)(iii) of this Act;
- (d) for making any necessary financial adjustments by payments into or out of the Industrial Injuries Fund.

General

85.—(1) Any power to make regulations or an order conferred by this Act shall be exercisable by statutory instrument.

Orders in
Council,
regulations
and orders—
general.

(2) Except in so far as this Act otherwise provides, any power conferred thereby to make an Order in Council or regulations may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

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(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of this Act;

(iii) any such provision either unconditionally or subject to any specified condition.

(3) Any power conferred by this Act to make an Order in Council shall include power to vary or revoke any Order in Council so made by a subsequent Order in Council.

(4) No regulations shall be made wholly or partly by virtue of section 75 of this Act (other than regulations to be made for the purpose only of consolidating regulations thereby revoked or regulations which, in so far as they are made by virtue of the said section 75, only replace provisions of previous regulations with new provisions to the same effect), unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament.

(5) All regulations made (whether by the Minister or otherwise) under this Act other than regulations to which subsection (4) of this section applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Any reference in the foregoing provisions of this section to this Act (otherwise than as part of a reference to a particular provision thereof) shall include a reference to, and any power under this Act to prescribe modifications of or exceptions or additions to, or to prescribe or make provision by Order in Council for modifications or adaptations of, the provisions of this Act shall be exercisable also in relation to, any enactment passed after this Act which is directed to be construed as one therewith, except in so far as the contrary intention appears and without prejudice to the generality of that direction.

Interpretation. **86.**—(1) In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

1946 c. 62.

“ the Act of 1946 ” means the National Insurance (Industrial Injuries) Act 1946 ;

“ beneficiary,” in relation to any benefit, means the person entitled to that benefit ;

“ benefit ” means benefit under this Act or, as respects any period before the commencement of this Act, under the Act of 1946 ;

“ claimant ” means a person claiming benefit, and includes—

(a) an applicant for a declaration that an accident was or was not an industrial accident ; and

(b) in relation to the review of an award or

- decision, a beneficiary under the award or affected by the decision ;
- and references to a claim shall be construed accordingly ;
- “ the Consequential Repeals Act ” means the Statute Law Revision (Consequential Repeals) Act 1965 ; 1965 c. 55.
- “ contribution ” means a contribution under this Act or, as respects any period before the commencement of this Act, under the Act of 1946 ;
- “ contribution week ” means a period of seven days beginning with midnight between Sunday and Monday ;
- “ day ” means a period of twenty-four hours from midnight to midnight or such other period of twenty-four hours as the Minister may prescribe ;
- “ the deceased,” in relation to death benefit, means the person in respect of whose death the benefit is claimed or payable ;
- “ disablement question ” means a question to which section 37 of this Act applies ;
- “ earnings,” where used in relation to a person, includes any remuneration or profit derived from a gainful occupation ;
- “ the Family Allowances Act ” means the Family Allowances Act 1965 ; 1965 c. 53.
- “ the Insurance Act ” means the National Insurance Act 1965 ; 1965 c. 51.
- “ the Insurance Act of 1946 ” means the National Insurance Act 1946 ; 1946 c. 67.
- “ insured person ” means a person employed in insurable employment ;
- “ medical examination ” includes bacteriological and radiographical tests and similar investigations, and references to being medically examined shall be construed accordingly ;
- “ medical practitioner ” means a registered medical practitioner and includes a person outside the United Kingdom who is not a registered medical practitioner but has qualifications corresponding, in the opinion of the Minister, to those of a registered medical practitioner ;
- “ the Minister ” means the Minister of Pensions and National Insurance ;
- “ prescribe ” means prescribe by regulations ;
- “ regulations ” means regulations made by the Minister under this Act ;
- “ relevant accident ” and “ relevant injury ” mean respectively, in relation to any benefit, the accident and injury in respect of which that benefit is claimed or payable ;

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and "relevant loss of faculty" means the loss of faculty resulting from the relevant injury ;

"special question" means a question to which section 35, 36 or 37 of this Act applies ;

"supplementary scheme" has the meaning assigned by section 82(1) of this Act ;

"unemployability supplement" has the meaning assigned by section 13(3) of this Act.

(2) For the purposes of this Act—

(a) the expression "child" means a person who would be treated as a child for the purposes of the Family Allowances Act ;

(b) a child shall be deemed to be under the upper limit of the compulsory school age if he would be treated as being so for the purposes of that Act ;

(c) a person shall be deemed to have a family which includes a child or children if that person (not being a child) and a child or children (with or without a wife or husband of that person) would be treated for the purposes of that Act as constituting a family, and references to a child of a person's family shall be construed accordingly.

(3) For the purposes of this Act—

(a) a man and his wife shall not be deemed to be living otherwise than together unless they are permanently living in separation either by agreement or under an order of a court, or one of them has deserted the other and the separation incident to the desertion has not come to an end ;

(b) two persons shall not be deemed to have ceased to reside together by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in a hospital or similar institution or by reason of any absence of either or both of them in such circumstances as may be prescribed.

(4) For the purposes of this Act—

(a) a person shall be deemed to be over or under any age therein mentioned if he has or, as the case may be, has not attained that age ;

(b) a person shall be deemed to be between any two ages therein mentioned if he has attained the first mentioned age and has not attained the second mentioned age ;

(c) a person shall be deemed, according to the law in England as well as according to the law in Scotland,

not to have attained a given age until the commencement of the relevant anniversary of the day of his birth ;

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(d) regulations may provide that, for the purpose of determining whether a contribution is payable in respect of any person, or at what rate a contribution is payable, that person shall be treated as having attained at the beginning of a contribution week, or as not having attained until the end of a contribution week, any age which he attains during the course of that week.

(5) A marriage performed outside the United Kingdom under a law which permits polygamy shall be treated for any purpose of this Act as being and having at all times been a valid marriage if and so long as the authority by whom any question or claim arising in connection with that purpose falls to be determined is satisfied that the marriage has in fact at all times been monogamous.

(6) For the purposes of this Act, the exercise and performance of the powers and duties of a public or local authority shall be treated as the trade or business of the authority.

(7) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including any enactment contained in this Act.

87.—(1) Any instrument in force immediately before the commencement of this Act and made or having effect as if made under any enactment repealed by the Consequential Repeals Act but re-enacted in this Act, and any contribution paid, appointment, claim or award made, or other thing whatsoever done, under or by virtue of any such enactment, shall be deemed to have been made, paid or done, as the case may be, under or by virtue of the corresponding provision of this Act ; and anything begun under any such enactment may be continued under this Act as if begun under this Act. General savings, etc.

(2) So much of any document as refers expressly or by implication to any enactment repealed and re-enacted as aforesaid or to the Act containing that enactment shall, if and so far as the context permits, be construed as referring to the corresponding provision of this Act or, as the case may be, to this Act.

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1957 c. 20.

(3) The House of Commons Disqualification Act 1957 shall have effect subject to the following amendments, being amendments of that Act in its application to the House of Commons of the Parliament of the United Kingdom, that is to say, in Schedule 1—

(a) in Part II, in the entries beginning respectively “ A Medical Appeal Tribunal ” and “ A Medical Board ”, and

(b) in Part III, in the entry beginning “ Chairman or Reserve Chairman of a Local Tribunal or Local Appeal Tribunal ”,

for the words “ National Insurance (Industrial Injuries) Act 1946 ”, wherever those words occur, there shall be substituted the words “ National Insurance (Industrial Injuries) Act 1965 ”.

(4) Any regulations in force immediately before the commencement of this Act and made, or having effect as if made, under any enactment repealed but not re-enacted as aforesaid, so far as those regulations relate to the National Insurance (Industrial Injuries) Acts 1946 to 1964, shall continue in force in like manner, subject to the like power of revocation or variation, as if the enactment in question had been so re-enacted.

1964 c. 96. (5) Any regulations made by virtue of section 32(2) or 57(1)(e) or (f)(ii) of the Act of 1946 and in force after the commencement of this Act shall continue to be construed as if amendments corresponding to those made by paragraph 15 of Schedule 6 to the National Insurance &c. Act 1964 in the said sections 32(2) and 57(1)(e) and (f)(ii) had been made in those regulations.

(6) The rate or amount of any benefit in respect of any period before the commencement of this Act shall be determined in accordance with the provisions as to that rate or amount in force at the period in question.

1889 c. 63. (7) In relation to any enactment repealed and re-enacted as aforesaid, section 38(1) of the Interpretation Act 1889 shall have effect as if the Consequential Repeals Act formed part of this Act ; and nothing in subsections (1) to (3) of this section shall be taken as affecting the general application of the said section 38 as modified by this subsection with regard to the effect of repeals.

Short title,
extent and
commence-
ment.

88.—(1) This Act may be cited as the National Insurance (Industrial Injuries) Act 1965.

(2) This Act, except sections 83(5) and 87 thereof, shall not extend to Northern Ireland.

1965 c. 51. (3) This Act shall come into force on the same day as the National Insurance Act 1965.

SCHEDULES

SCHEDULE 1

Section 1.

INSURABLE AND EXCEPTED EMPLOYMENTS

PART I

INSURABLE EMPLOYMENTS

1. Employment in Great Britain under any contract of service or apprenticeship, whether written or oral, and whether expressed or implied (in this Schedule referred to as a "contract of service").

2.—(1) Employment under a contract of service either as master or a member of the crew of any ship or vessel to which this paragraph applies, or in any other capacity on board any such ship or vessel where—

- (a) the employment in that other capacity is for the purposes of the ship or vessel or her crew or of any passengers or cargo or mails carried thereby ; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage ;

and any other prescribed employment as master or a member of the crew of any such ship or vessel, being a fishing vessel, where the person employed is remunerated in whole or in part by a share in the profits or gross earnings of the fishing vessel.

(2) This paragraph applies, with such exceptions as may be prescribed—

- (a) to all ships and vessels belonging to Her Majesty ;
- (b) to all ships and vessels whose port of registry is a port in Great Britain ;
- (c) to all other British ships and vessels (not being ships or vessels whose port of registry is a port in Northern Ireland) of which the owner (or managing owner if there is more than one owner) or the manager resides or has his principal place of business in Great Britain.

(3) In this paragraph the expression "manager" means, in relation to any ship or vessel, the ship's husband or other person to whom the management of the ship or vessel is entrusted by or on behalf of the owner ; and references in this paragraph to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be construed as referring to the person for the time being entitled as charterer to possession and control of the ship or vessel by virtue of the demise or any sub-demise.

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3.—(1) Such employment as may be prescribed in connection with any such ship or vessel to which paragraph 2 of this Part of this Schedule does not apply as may be prescribed, whether British or not, where—

- (a) that employment would be included in the said paragraph 2 if that paragraph applied to that ship or vessel; and
- (b) the person by whom the remuneration in respect of that employment is paid, or, in the case of employment as master or member of the crew of the ship or vessel, either that person or the owner of the ship or vessel (or managing owner if there is more than one owner), has a place of business in Great Britain.

(2) Sub-paragraph (3) of the said paragraph 2 shall apply in relation to this paragraph as it applies in relation to that paragraph.

4. Employment under a contract to act as master or member of the crew of such of the ships or vessels of a particular owner or owners as may be determined in accordance with the contract, where the employment would be included in paragraph 2 or 3 of this Part of this Schedule in the case of each ship or vessel if the contract related to it alone.

5.—(1) In the case of a qualified British radio officer, employment under a contract to act as radio officer on board such ships or vessels as may be determined in accordance with the contract, where the contract is a contract of service, the remuneration in respect of the employment is paid by a person having a place of business in Great Britain, and any other prescribed conditions are satisfied, not being employment while the person employed is serving as radio officer on board a ship or vessel.

1949 c. 43.

(2) In this paragraph the expression “qualified British radio officer” means a person who possesses qualifications enabling him to be radio officer on board a British ship registered in the United Kingdom of a class required under section 3 of the Merchant Shipping (Safety Convention) Act 1949 to carry a radio officer, and the expression “radio officer” includes radio operator.

6. Employment as pilot on board any ship or vessel in any case where the person employed holds a licence or deep sea certificate from a pilotage authority in Great Britain covering that employment and in such other cases as may be prescribed.

7. Employment as a regular or enrolled member of the crew of any lifeboat stationed in Great Britain under the control of the Royal National Lifeboat Institution.

8.—(1) Employment under a contract of service either as pilot, commander, navigator or member of the crew of any aircraft to which this paragraph applies, or in any other capacity on board any such aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried thereby; and

(b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight.

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(2) This paragraph applies, with such exceptions as may be prescribed, to all aircraft belonging to Her Majesty and to all aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in Great Britain.

(3) In this paragraph references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

9.—(1) Such employment as may be prescribed in connection with any such aircraft to which paragraph 8 of this Part of this Schedule does not apply as may be prescribed, whether registered in the United Kingdom or not, where—

(a) that employment would be included in the said paragraph 8 if that paragraph applied to that aircraft ; and

(b) the person by whom the remuneration in respect of that employment is paid, or, in the case of employment as pilot, commander, navigator or member of the crew of the aircraft, either that person or the owner of the aircraft (or managing owner if there is more than one owner), has a place of business in Great Britain.

(2) Sub-paragraph (3) of the said paragraph 8 shall apply in relation to this paragraph as it applies in relation to that paragraph.

10. Employment under a contract to act as pilot, commander, navigator or member of the crew of such of the aircraft of a particular owner or owners as may be determined in accordance with the contract, where the employment would be included in paragraph 8 or 9 of this Part of this Schedule in the case of each aircraft if the contract related to it alone.

11. Employment in Great Britain under any public or local authority constituted in Great Britain.

12. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or, in Scotland, of letting to hire (not being in either case a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.

13. Employment in Great Britain as a member, or as a person training to become a member, of any such fire brigade, rescue brigade, first-aid party or salvage party at a factory, mine or works as may be prescribed, or of any such similar organisation as may be prescribed.

Sections 2, 3.

SCHEDULE 2

PROVISIONS AS TO CONTRIBUTIONS

PART I

WEEKLY RATES OF CONTRIBUTIONS PAYABLE BY INSURED PERSONS
AND EMPLOYERS

Class of insured person to whom rate applies 1	Weekly rate of contribution	
	By the insured person 2	By the employer 3
Men over the age of 18 ...	9d.	10d.
Women over the age of 18 ...	6d.	7d.
Boys under the age of 18 ...	5d.	5d.
Girls under the age of 18 ...	3d.	4d.

PART II

EXEMPTIONS FROM CONTRIBUTIONS

1. An insured person shall be exempt from any liability to pay contributions arising by reason of his being employed in any employment in respect of which such exemption is conferred by regulations made under section 75 of this Act.

2. An insured person or his employer or both (as may be prescribed) shall be exempt from any liability to pay contributions arising by reason of the insured person being employed—

(a) in employment of any class prescribed for the purposes of this paragraph with the consent of the Treasury as being of such a nature that it is ordinarily adopted as subsidiary employment only ;

(b) in employment of any other class so prescribed, where the insured person is employed therein to no greater extent than such as may be so prescribed as being inconsiderable.

3. An employment may be prescribed by regulations made under paragraph 2(a) or (b) of this Part of this Schedule as respects insured persons employed therein notwithstanding that in relation to other persons so employed it is an excepted employment by virtue of regulations made under paragraph 8 or 9, as the case may be, of Part II of Schedule 1 to this Act.

PART III

RETURN OF CONTRIBUTIONS PAID ERRONEOUSLY

1. Regulations shall provide, subject to the provisions of this Part of this Schedule, for the return to a person and to his employer of any contributions paid by them respectively under the erroneous

belief that the contributions were payable in respect of that person under the provisions of this Act.

SCH. 2

2. Regulations made under this Part of this Schedule—

- (a) shall provide that a return of contributions shall not be made except on an application made in the prescribed manner and within the prescribed period (not being less than one year) from the date on which the contributions were paid ; and
- (b) shall provide that a return of an employed person's contributions shall, in a case where the contributions were paid under the erroneous belief that his employment was insurable employment, be subject to the deduction of an amount not exceeding the aggregate sum awarded under such erroneous belief and received (whether by him or by any other person) by way of benefit—
- (i) in respect of an injury or disease caused to or contracted by him, being an injury caused by accident arising out of and in the course of that employment or a disease or injury due to the nature of that employment ; and
- (ii) since the date on which the first contribution so paid within the said period was paid ;
- (c) may provide, in the case of contributions paid by an employer on behalf of any person employed by him and not recovered from that person, for the return being made to the employer instead of to that person.

SCHEDULE 3

Sections 11, 12,
13, 14, 15, 17, 18,
19, 20, 21, 29.

RATE OR AMOUNT OF BENEFIT, ETC.

Description of benefit, etc.	Amount
1. Injury benefit under s. 11 (weekly rate).	(a) for any period during which the beneficiary is over the age of 18 or is entitled to an increase of benefit in respect of a child or adult dependant ... £6 15s. (b) for any period during which the beneficiary is between the ages of 17 and 18 and not entitled as aforesaid ... £5 1s. 3d. (c) for any period during which the beneficiary is under the age of 17 and not entitled as aforesaid ... £3 7s. 6d.
2. Maximum disablement gratuity under s. 12(3).	£450.

Section 12.

SCHEDULE 4

ASSESSMENT OF EXTENT OF DISABLEMENT

1. For the purposes of section 12 of this Act, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles:—

- (a) save as hereafter provided in this paragraph, the disabilities to be taken into account shall be all disabilities (whether or not involving loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
- (b) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to the provisions of any regulations made under paragraph 2 of this Schedule, it shall not be so treated in so far as the claimant either—
 - (i) would in any case have been subject thereto as the result of a congenital defect or of an injury or disease received or contracted before the relevant accident; or
 - (ii) would not have been subject thereto but for some injury or disease received or contracted after, and not directly attributable to, that accident;
- (c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex, and physical and mental condition;
- (d) the disabilities resulting from such loss of faculty as may be prescribed shall be taken as amounting to one hundred per cent. disablement and other disabilities shall be assessed accordingly.

2. Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed and such regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement; and, in connection with any such direction, nothing in paragraph 1(c) of this Schedule shall be taken to prevent the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.

3. The period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty:

Provided that if on any assessment the condition of the claimant is not such, having regard to the possibility of changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the said period—

SCH. 4

- (a) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his condition and the possibility aforesaid ; and
- (b) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

4. An assessment shall state the degree of disablement in the form of a percentage and shall also specify the period taken into account thereby and, where that period is limited by reference to a definite date, whether the assessment is provisional or final:

Provided that—

- (a) the said percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with section 12 of this Act the claimant's rights as to disablement benefit ; and
- (b) a percentage between twenty and one hundred which is not a multiple of ten shall be treated—
 - (i) if it is a multiple of five, as being the next higher percentage which is a multiple of ten ;
 - (ii) if it is not a multiple of five, as being the nearest percentage which is a multiple of ten.

SCHEDULE 5

Sections 21, 22,
23, 24.

PROVISIONS LIMITING BENEFIT PAYABLE IN RESPECT OF ANY DEATH

1. Where two or more persons satisfy the conditions, in respect of the same death, for receipt of an allowance or allowances under section 21 of this Act for any period—

- (a) not more than one of those persons shall be entitled for that period to such an allowance in respect of the same child ;
- (b) if two or more of those persons would, but for this paragraph, be entitled for that period to such an allowance at, or at a rate higher than, the rate applicable to an only, elder or eldest child in respect of different children, one person shall be entitled to an allowance at such a rate and the other or each of the others (subject to paragraph (a) of this sub-paragraph) to an allowance at the rate applicable to a child other than an only, elder or eldest child ;

- SCH. 6
3. Agreement, bond or other security made or given for the purpose of, or in connection with, any supplementary scheme.
 4. Appointment or revocation of appointment of an agent, appointment of a new trustee, and any conveyance or transfer made for effectuating the appointment of a new trustee and any other document authorised by or in pursuance of this Act or of any supplementary scheme or otherwise required in order to give effect to the provisions of this Act.
 5. Receipt given in respect of a refund or return of contributions or fees paid under this Act or the Act of 1946.

Section 83.

SCHEDULE 7

CONSTITUTION, ETC., OF JOINT AUTHORITY

1. The Joint Authority shall be a body corporate by the name of the Industrial Injuries Joint Authority, and shall have an official seal which shall be officially and judicially noticed, and the seal of the Authority may be authenticated by either member of, or the secretary to, the Authority, or by any person authorised by the Authority to act on behalf of the secretary.
2. Either member of the Joint Authority shall be entitled, subject to and in accordance with any rules laid down by the Authority, to appoint a deputy to act for him at meetings of the Authority at which he is unable to be present.
- 1868 c. 37. 3. The Documentary Evidence Act 1868 shall apply to the Joint Authority as if that Authority were included in the first column of the Schedule to the said Act, and as if either member or the secretary, or any person authorised to act on behalf of the secretary, of the Authority were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Authority.

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