First Schedule 4. The parties to the reference and all persons claiming through them respectively shall, subject to any legal objection, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

5. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

8. The arbitrators or umpire may, if they think fit, make an interim award.

9. The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to, and by whom, and in what manner, those costs, or any part thereof, shall be paid and may tax or settle the amount of costs to be so paid, or any part thereof, and may award costs to be paid as between solicitor and client.

Qualifications

REGULATIONS, DATED 7TH MARCH, 1946, MADE BY THE MINISTRY OF LABOUR IN CONJUNCTION WITH THE MINISTRY OF FINANCE UNDER THE FAMILY ALLOWANCES ACT (NORTHERN IRELAND), 1945.

1946. No. 25

The Ministry of Labour, in exercise of the powers conferred on it by the Family Allowances Act (Northern Ireland), 1945, and of all other powers enabling it in that behalf and in conjunction with the Ministry of Finance, so far as relates to matters with respect to which the Ministry of Finance has so directed, hereby makes the following regulations :—

PART I.

General

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the Family Allowances (Qualifications) Regulations (Northern Ireland), 1946, and shall come into force on the first date on which, by virtue of orders made by the Minister of Labour under subsection (1) of section 26 of the Family Allowances Act (Northern Ireland), 1945, the whole of the provisions of that Act other than section 1 are in force.

(2) In these regulations, except as hereinafter provided and unless the context otherwise requires—

" the Act " means the Family Allowances Act (Northern Ireland), 1945 ;

" allowance " means an allowance under the Act ;

" family " has the same meaning as in the Act ;

the expressions " a member of the Forces " and " a merchant seaman " have the meanings assigned to them in the Schedule hereto ;

" the Ministry " means the Ministry of Labour for Northern Ireland ;

" parent " means in relation to any child, the person in whose family such child would, if living with such person, be treated as included for the purposes of the Act as being issue of that person or, in the case of a man and his wife living together, as being issue of either the man or his wife.

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

PART II.

Requirements as to Nationality, Residence, etc.

Section 24 (1) of the Act.

Requirements for family of a man and his wife living together.

2. It shall be a condition of the right to any allowance at any date for the family of a man and his wife living together, if the man is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely :—

(1) that the wife is at that date a British subject whose place of birth is in the United Kingdom ; or

(2) that the wife was at any time before that date a British subject whose place of birth is in the United Kingdom but ceased to be so solely by reason of marriage to a man who was at any time during the marriage an alien ; or

(3) that the man or the wife is a British subject who for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(4) that the wife was at any time before that date a British subject but ceased to be so solely by reason of marriage to a man who was at any time during the marriage an alien, and that for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date she has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(5) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date the man or the wife has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Requirements for family of a man not having a wife or not living together with his wife.

3. It shall be a condition of the right to any allowance at any date for the family of a man not having a wife or not living together with his wife, if he is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely :—

(1) that he is at that date a British subject who for at least one hundred and four weeks in the aggregate out of the three

years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(2) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date he has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Requirements for family of a woman not having a husband or not living together with her husband.

4. It shall be a condition of the right to any allowance at any date for the family of a woman not having a husband or not living together with her husband, if she is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely :—

(1) that she was at any time before that date a British subject whose place of birth is in the United Kingdom but ceased to be so solely by reason of marriage to a man who was at any time during the marriage an alien ; or

(2) that she is a British subject who for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(3) that she was at any time before that date a British subject but ceased to be so solely by reason of marriage to a man who was at any time during the marriage an alien, and that for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date she has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(4) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date she has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Modification of requirements for all families by reason of recent emergency.

5.—(1) Where at any date a family would have failed to qualify under the provisions of regulations 2, 3 or 4 for the right to an allowance solely because no member thereof had, for the amount of time applicable to his case under those regulations, been present in Northern Ireland or a member of the Forces or a merchant seaman, the Ministry may in its discretion, if it is of opinion that but for circumstances arising directly out of the recent emergency a member thereof would have fulfilled those requirements, treat the family as qualified for the right to the allowance so far as the provisions of subsection (1) of section 24 of the Act are concerned, provided that at some date during the period of the recent emergency the conditions of sub-paragraph (*a*) or (*b*) of this paragraph, as the case may be, were fulfilled in respect of such member, namely, that at that date—

(*a*) he or she was a British subject (or alternatively, in the case of a woman, she had once been a British subject but had ceased to be so solely by reason of marriage to a man who was at any time during the marriage an alien), who had for at least one hundred and four weeks in the aggregate out of the then immediately preceding three years either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman ; or

(*b*) he or she had for at least one hundred and fifty-six weeks in the aggregate out of the immediately preceding four years either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

(2) For the purposes of this regulation " the recent emergency " means the emergency which was the occasion of the passing of the Emergency Powers (Defence) Act, 1939, and " the period of the recent emergency " means the period beginning with the 24th day of August, 1939, and ending on the 24th day of February. 1946,

Aggregation of periods.

6. For the purposes of this Part of these regulations periods during which a person is present in Northern Ireland and periods during which, when not so present, he is a member of the Forces or a merchant seaman shall be aggregated.

Effect of once satisfying requirements.

7. Notwithstanding anything contained in this Part of these regulations, where a person has once been a member, otherwise than as a child, of a family for which the right to an allowance existed at any time while he or she was such a member, he or she shall thenceforth be treated as having satisfied the conditions of subsection (1) of section 24 of the Act for the purposes of any allowances at any date for that family or for any other family of which he or she may subsequently become a member.

PART III.

Rules for determining whether presence in or absence from Northern Ireland is or is not to be treated as temporary.

Section 24 (4) of the Act.

Interpretation.

8. In this Part of these regulations, unless the context otherwise requires, " presence " and " absence " mean presence in and absence from Northern Ireland respectively.

An adult's presence in or absence from Northern Ireland.

9.—(1) For the purposes of subsection (2) of section 24 of the Act—

(*a*) the presence of a person at any date shall be treated as temporary except in the following circumstances :—

(i) if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seamen ; or

(ii) if the period of that presence has been immediately preceded by a period of absence throughout which there was a right to an allowance for his family ;

(*b*) the absence of a person at any date shall be treated as temporary unless it is for a purpose other than a temporary purpose or unless either—

(i) the absence has lasted for a continuous period exceeding six months ; or

(ii) the person is a member of a family for which there was no right to an allowance in existence immediately prior to that date, and for more than twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has neither been present in Northern Ireland nor been a member of the Forces or a merchant seaman :

Provided that the absence of a person at any date while he is a member of the Forces or a merchant seaman shall always be treated as temporary if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

(2) Where at any date there is already in existence a right to one or more allowances for the family of a man and his wife, that family shall for the purposes of this regulation, be treated as continuing in existence despite the death of either of them occurring whilst they are living together.

Aggregation of periods.

10. For the purposes of regulation 9 periods during which a person is present in Northern Ireland and periods during which, when not so present, he is a member of the Forces or a merchant seaman, shall be aggregated.

A child's presence in or absence from Northern Ireland.

11. For the purposes of subsection (3) of section 24 of the Act the presence or absence of a child at any date shall not be treated as temporary except in the following circumstances :—

(1) the presence at any date of a child whose place of birth is not in the United Kingdom and who would, if his presence were treated as other than temporary, be included for the purposes of the Act in the family of any person other than a parent, shall be treated as temporary unless—

(*a*) he has been present in Northern Ireland for the whole period of six months immediately preceding that date ; or

(*b*) the period of that presence has been immediately preceded by a period of temporary absence ;

(2) the absence at any date of a child who is ordinarily resident in Northern Ireland shall be treated as temporary if and so long

as the period of such absence is not intended to exceed and has not exceeded six months or such longer period as the Ministry may, in the special circumstances of any particular case, determine.

PART IV.

Rules for determining whether the absence of a child from a person or the interruption or reduction of a person's contribution is or is not to be treated as temporary

Section 21 (7) of the Act.

12.—(1) In this part of these regulations unless the context otherwise requires— Interpretation.

" hospital " means any premises used for the reception and treatment of persons suffering from any illness including mental illness or of persons suffering from physical disability or mental defectiveness and any premises used for providing treatment during convalescence or for medical rehabilitation ;

the expression " providing for a child " has the same meaning as in the Act.

(2) For the purposes of this Part of these regulations a man and his wife living together shall be treated as one person and references to a person (other than a fit person) shall be construed as references to such persons as are mentioned in paragraphs (*a*), (*b*) and (*c*) respectively of subsection (1) of section 3 of the Act, that is to say, a man and his wife living together, such a man as is mentioned in the said paragraph (*b*) and such a woman as is mentioned in the said paragraph (*c*).

13.—(1) Subject to the provisions of regulation 15, in determining whether any absence (other than at a school) of a child from a parent or any interruption or reduction of a parent's contribution to the cost of providing for a child is or is not to be treated as temporary for the purposes of subsection (7) of section 21 of the Act the following rules shall apply :— Absence from a parent and interruption or reduction of parent's contribution.

(*a*) any such absence, interruption or reduction due to the child undergoing treatment as an in-patient at a hospital shall be treated as temporary while the child is undergoing such treatment ;

(*b*) any such interruption or reduction due to the child being at a school shall be treated as temporary while the child is at that school ;

(*c*) any such absence, interruption or reduction which does not fall within sub-paragraph (*a*) or (*b*) of this paragraph shall be treated as temporary for a period of twelve weeks and no longer :

Provided that if the absence, interruption or reduction has been immediately preceded by an absence, interruption or reduction falling within sub-paragraph (*a*) or (*b*) of this

paragraph, or by absence at a school, the said period of twelve weeks shall not begin to run until after the termination of that immediately preceding absence, interruption or reduction as the case may be.

(2) Notwithstanding the provisions of sub-paragraph (*c*) of paragraph (1) of this regulation, any absence from a parent and any interruption or reduction of a parent's contribution falling within that sub-paragraph shall cease to be treated as temporary if provision has been made for the child, other than by a person within the meaning of paragraph (2) of regulation 12, for a period of four weeks during which no such person other than that parent has been providing in his own home for the child or contributing at the rate of five shillings a week or more to the cost of providing for the child elsewhere.

Absence from a person other than a parent and interruption or reduction of such person's contribution.

14. Subject to the provisions of regulation 15, any absence (other than at a school) of a child from a person other than a parent and any interruption or reduction of the contribution of a person other than a parent to the cost of providing for a child shall, for the purposes of subsection (7) of section 21 of the Act, be treated as temporary for the first four weeks thereof and no longer.

Further provisions relating to absence and to interruption or reduction of contributions.

15. Notwithstanding anything contained in regulations 13 and 14 no absence (other than at a school) of a child from any person, and no interruption or reduction of the contribution made by any person to the cost of providing for a child shall be treated as temporary for the purposes of subsection (7) of section 21 of the Act if—

(1) there is in force an order under the Children Act, 1908, committing the child to the care of a relative or other fit person :

Provided that this shall not apply to any absence from, or to any interruption or reduction of the contribution made by, such relative or other fit person ; or

(2) the Ministry is satisfied either—

(*a*) that the absence, interruption or reduction is or is intended to be other than temporary ; or

(*b*)—(i) that, if the absence, interruption or reduction were treated as other than temporary, the child would fall to be treated as included in the family of some other person and that by reason of such inclusion there would come into existence a right to an allowance under the Act for such a family ; and

(ii) that it is more fitting that the child should be treated as included in such family than that the absence, interruption or reduction should be treated as temporary.

PART V.

Section 17 (1) (*b*) of the Act.

Full-time instruction in a school

Interpretation.

16. In this Part of these regulations, unless the context otherwise requires, the expression " the upper limit of the compulsory school age " has the same meaning as in section 2 of the Act.

Circumstances in which a person is to be treated as undergoing full-time instruction.

17.—(1) A person shall not cease to be treated as undergoing full-time instruction during any period during which he would have been undergoing such instruction but for the occurrence of any of the following events :—

(*a*) holidays of that person which are recognised by the responsible school authority ;

(*b*) the temporary closure by the responsible school authority during a school term of the school which that person normally attends ;

(*c*) absence from school of that person authorised by the responsible school authority by reason of contact with infectious disease ;

(*d*) illness of that person, so however that any period of illness after that person has attained the upper limit of the compulsory school age shall not be treated as a period of full-time instruction unless that person attends school at some time between attaining the upper limit of the compulsory school age and the first day of August next following his sixteenth birthday ;

(*e*) absence from school on not more than two occasions in any calendar year owing to illness (other than illness of that person) occurring at, or any absence from school owing to death at, the home of that person, so however that any such absence after the first two weeks shall not be treated as a period of full-time instruction ;

(*f*) the temporary suspension of the ordinary means of transport of that person to school where alternative means of reaching school are not reasonably available ;

(*g*) absence from school owing to the removal of that person from one school to another, so however that any such absence after the first four weeks shall not be treated as a period of full-time instruction.

(2) In determining whether a person's instruction in a school shall be treated as full-time, any instruction received by him after the hour of 5 p.m. shall be disregarded.

Sealed with the Official Seal of the Ministry of Labour for Northern Ireland this 7th day of March, 1946, in the presence of

(L.S.) *William Allen*,
Assistant Secretary to the Ministry of Labour for Northern Ireland.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 7th day of March, 1946, in the presence of

(L.S.) *Thom McCrea*,
Assistant Secretary to the Ministry of Finance for Northern Ireland.

SCHEDULE.

Meaning of "a member of the Forces" and "a merchant seaman."

1. For the purposes of these regulations the expression "a member of the Forces" means any person who, being a member of the armed Forces of the Crown raised in the United Kingdom or a member of any nursing or other auxiliary service similarly raised and forming part of or attached to those Forces, is in receipt of service pay in respect of naval, military or air force service.

2. For the purposes of these regulations the expression "a merchant seaman" means—

(1) any person employed under a contract of service as master or a member of the crew of any of His Majesty's ships or of any other British ship, if either—

(*a*) the contract was entered into in Northern Ireland; or

(*b*) it was entered into outside Northern Ireland, and the person had set out from Northern Ireland for the purpose of entering into such contract:

Provided that any such person as is referred to in sub-paragraph (1) (*b*) of this paragraph shall be treated as a merchant seaman for the purposes of these regulations during the period between his setting out from Northern Ireland and his entering into such contract;

(2) any person who, having been a person referred to in sub-paragraph (1) of this paragraph has not, since last being such a person, ceased to be employed under contracts of service as master or a member of the crew either of one of His Majesty's ships or of some other British ship:

Provided that a person shall be deemed not to have ceased to be so employed during any period during which he is temporarily prevented from being so employed;

(3) any person who having been a person referred to in sub-paragraph (1) or (2) of this paragraph and having ceased so to be, is proceeding or intending to proceed to Northern Ireland:

Provided that if he fails to proceed to Northern Ireland as soon as reasonably practicable after such cessation he shall not, after such failure, be treated as a merchant seaman by virtue of this sub-paragraph;

(4) any person who has set out from Northern Ireland for the purpose of entering into a contract of service as master or a member of the crew of any of His Majesty's ships or of any other British ship or who, having so set out, has failed to enter into such contract and is proceeding or intending to proceed to Northern Ireland.

Provided that if, having so failed, he does not proceed to Northern Ireland as soon as reasonably practicable after such failure he shall no longer be treated as a merchant seaman by virtue of this sub-paragraph,