NATIONAL INSURANCE (INDUSTRIAL INJURIES)

1. *Commencement of* 1946 *Act.*
2. *Airmen.*
3. *Benefit*, p. 2918.
4. *Claims and Payments*, p. 2942.
5. *Colliery Workers Supplementary Scheme*, p. 2954.
6. *Contributions*, p. 2969.
7. *Determination of Claims and Questions*, p. 2971.
8. *Employers' Liability Insurance*, p. 2984.
9. *Insurable and Excepted Employments*, p. 2985.
10. *Mariners*, p. 2990.
11. *Medical Certification*, p. 2996.
12. *Prescribed Diseases*, p. 3001.
13. *Reciprocal Agreements*, p. 3025.
14. *Stamps*, p. 3037.

1. COMMENCEMENT OF 1946 ACT

The National Insurance (Industrial Injuries) Act, 1946 (Appointed Day) Order, 1948

1948 No. 53

Made - - - - 13*th January*, 1948

I.I.103.

The Minister of National Insurance, in exercise of the powers conferred by subsection (1) of section 88 of the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following order:—

9 & 10 Geo. 6. c. 62.

1. The appointed day for the purposes of the said Act shall be the fifth day of July, 1948.

2. This order may be cited as the National Insurance (Industrial Injuries) Act, 1946 (Appointed Day) Order, 1948, and shall come into operation on the 23rd day of January, 1948.

Dated this 13th day of January, 1948.

James Griffiths,
Minister of National Insurance.

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2. AIRMEN

The National Insurance (Industrial Injuries) (Airmen) Regulations, 1948

1948 No. 1469

Made - - - -	29*th June*, 1948
*Laid before Parliament**	30*th June*, 1948
Coming into Operation	5*th July*, 1948

M.N.I./I.I.111.

The Minister of National Insurance, in exercise of powers conferred by sections 32 and 77 of the National Insurance (Industrial Injuries) Act,

9 & 10 Geo. 6. c. 62.

* In accordance with section 87 (1) of the National Insurance (Industrial Injuries) Act, 1946, a draft of regulations 1 to 4 and 6 to 8 has been approved by each House of Parliament. The necessary Resolutions were passed by the House of Lords on the 28th June, 1948, and by the House of Commons on the 23rd June, 1948.

1946, and of all other powers enabling him in that behalf, hereby makes the following regulations*:—

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Airmen) Regulations, 1948, and shall come into operation on the 5th July, 1948.

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

" the Act " means the National Insurance (Industrial Injuries) Act, 1946;

" the Minister " means the Minister of National Insurance;

" airman " means a person who is an insured person under the Act by virtue of paragraph 5 of Part I of the First Schedule thereto;

" prescribed disease " means a disease or injury prescribed for the purposes of Part IV of the Act;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

Insurance of airmen.

2. An airman who neither is domiciled nor has a place of residence in the United Kingdom shall be excepted from insurance under the Act in respect of his employment as such airman, and the subsequent provisions of these regulations shall not apply to such an airman:

Provided that this regulation shall have effect subject to any Order in Council giving effect to any reciprocal agreement made under section 85 of the Act (which section relates to reciprocal agreements with Dominions, colonies and foreign countries).

Accidents happening and diseases contracted outside Great Britain.

3.—(1) Benefit shall be payable, subject to and in accordance with the provisions of the Act, in respect of an accident arising out of and in the course of, or a prescribed disease due to the nature of, the insurable employment of any person as an airman notwithstanding that the accident happens or the disease is contracted while such person is outside Great Britain.

(2) The provisions of this regulation shall be extended 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 these regulations.

Special provisions as to benefit in the case of pilots, commanders, navigators and members of the crew of aircraft.

4. The provisions of Part II of the Act (which relates to benefit) shall, in their application to a person insured as an airman by virtue of employment as a pilot, commander, navigator or member of the crew of an aircraft to which paragraph 5 of Part I of the First Schedule to the Act applies, have effect subject to the following modifications:—

(*a*) Where the airman, having been left outside the United Kingdom on account of illness, injury, risk of infection or loss of or damage to the aircraft in which he was employed, subsequently returns to the United Kingdom at the expense of the employer in whose service he was up to the time of being so left, an accident happening to him while so returning shall, notwithstanding that during that time he renders no services and receives no wages, be deemed to arise out of and in the course of his employment as such airman if it would have been deemed so to have arisen had the

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return journey been undertaken in pursuance of an obligation under his contract of service with the employer aforesaid.

(*b*) In addition to the provisions of section 10 of the Act (which relates to accidents happening while meeting an emergency), an accident happening to an airman while employed as aforesaid 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 on or in connection with any aircraft to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(*c*) The requirements of paragraph (*b*) of subsection (1) of Section 9 of the Act (which section relates to accidents happening while travelling in the employer's transport) shall not apply in the case of an airman who, with the express or implied permission of his employer, is travelling to or from his place of work in any aircraft.

Disqualification and suspension during absence from Great Britain.

5.—(1) Those provisions of subsection (1) of section 32 of the Act which provide for disqualification for the receipt of benefit during periods of absence from Great Britain shall have effect in relation to benefit payable in respect of an accident arising out of and in the course of, or a prescribed disease due to the nature of, the employment of an airman as pilot, commander, navigator or member of the crew of an aircraft to which paragraph 5 of Part I of the First Schedule to the Act applies, subject to the following exceptions:—

(*a*) An airman shall not be disqualified for receiving injury benefit or disablement benefit (other than any increase of disablement benefit) for any period during which he is absent from Great Britain.

(*b*) A person shall not be disqualified for receiving death benefit in respect of the death of an airman for any period during which that person is in any part of His Majesty's dominions.

(*c*) An increase of injury benefit shall, subject to the provisions of the Act, be payable in respect of a person as an airman's wife or husband for any period during which that person is residing with the airman outside Great Britain and for which, by virtue of the foregoing provisions of this regulation, the airman is not disqualified for receiving that benefit.

(2) The payment of injury benefit or death benefit payable to any person in respect of an accident or disease such as is referred to in paragraph (1) of this regulation (whether in respect of a period of absence from Great Britain or otherwise) shall be suspended whilst that person is absent from Great Britain, unless—

(*a*) in the case of injury benefit, the Minister in any particular case otherwise determines, or the person is in Eire, the Isle of Man or the Channel Islands or has nominated a person in Great Britain (who is approved by the Minister) to receive payment of such benefit on his behalf; or

(*b*) in the case of death benefit, the person is in any part of His Majesty's dominions.

Extinguishment of right of airmen to receive payment of benefit.

6. Where an airman has failed to obtain payment of benefit within the period of six months specified in the proviso to paragraph (1) of regulation 18 of the National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948(**a**), and his failure is due to the fact that he was absent from Great Britain by reason of his employment as

(**a**) S.I. 1948 No. 1362, p. 2942 below.

an airman, that proviso shall apply to him with the substitution for the said period of six months of such a period as the Minister may, in any particular case, determine.

Evidence.

7. For the purpose of any claim for benefit by or in respect of such an airman, evidence may be taken—

(*a*) in any part of His Majesty's dominions, before a judge or magistrate or by a superintendent within the meaning of the Merchant Shipping Act, 1894; 57 & 58 Vict. c. 60.

(*b*) in a foreign country, by a British consular officer.

Application of the Act and regulations.

8. The provisions of the Act and of the regulations made thereunder shall, so far as they are not inconsistent with the provisions of these regulations, apply to airmen with this modification, that where an airman is, on account of his being outside the United Kingdom by reason of his employment as an airman, unable to perform an act required to be done either forthwith or on the happening of a certain event or within a specified time, he shall be deemed to have complied therewith if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Dated this 29th day of June, 1948.

James Griffiths,
Minister of National Insurance.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations modify and amplify the general provisions of the National Insurance (Industrial Injuries) Act, 1946, and the regulations made thereunder in their application to "airmen" as defined by section 77 of that Act (that is, persons employed under a contract of service on board British aircraft). The principal modifications and amplifications are:—(*a*) airmen who are not domiciled and have not a place of residence in the United Kingdom are excepted from insurance (regulation 2); (*b*) benefit is payable (subject to the provisions of the Act) in respect of accidents happening and diseases contracted outside Great Britain, and this provision is also extended to persons who in the course of insurable employment are on board any aircraft on a test flight starting in Great Britain, whether or not they are within the definition of airmen (regulation 3); (*c*) in the case of pilots, commanders, navigators or members of the crew of aircraft, the conditions of entitlement to benefit have been modified in respect of accidents happening while being repatriated, while acting in an emergency and while travelling in the employers' transport (regulation 4); (*d*) the provisions as to disqualification for the receipt of and suspension of payment of benefit during absence from Great Britain have been modified in relation to such airmen (regulation 5); (*e*) provision is also made for the extension of the normal period after which, if payment has not been obtained, the right to benefit under the Act is extinguished (regulation 6); and (*f*) there are special provisions as to taking evidence abroad (regulation 7). The remaining provisions are incidental or consequential.