5. COLLIERY WORKERS SUPPLEMENTARY SCHEME

The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Order, 1948

1948 No. 1794

Made - - - - 30*th July*, 1948
Coming into Operation 2*nd August*, 1948

M.N.I./1.1.115.

Whereas the National Coal Board, in conjunction with the Federation of Small Mines of Great Britain, the National Union of Mineworkers, the National Association of Colliery Overmen, Deputies and Shotfirers and the British Association of Colliery Management, who together claim to represent or to be entitled to be treated as representing the insured persons employed as colliery workers (as defined in the Scheme hereinafter referred to) and their employers, have submitted to the Minister of National Insurance (hereinafter referred to as "the Minister") in pursuance of section 83 of the National Insurance (Industrial Injuries) Act, 1946 (hereinafter referred to as "the Act") the Supplementary Scheme set forth in the Schedule hereto for supplementing the rights conferred by the Act on those insured persons by providing for additional payments in certain cases for which benefit is provided by the Act;

9 & 10 Geo. 6. c. 62.

And whereas the Minister, being of opinion that the insured persons and employers affected by the said Supplementary Scheme are represented by the bodies submitting the Scheme, is satisfied that it is expedient that the said Supplementary Scheme should come into operation:

Now, therefore, the Minister, in exercise of the powers conferred by section 83 of the Act, and of all other powers enabling him in that behalf, hereby makes the following order in the terms of a draft duly approved by resolution of each House of Parliament*:—

1. The Minister hereby approves the Supplementary Scheme set forth in the Schedule hereto.

2. This order may be cited as the National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Order, 1948, and shall come into operation on the 2nd August, 1948.

Dated this 30th day of July, 1948.

James Griffiths,
Minister of National Insurance.

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* The necessary Resolutions were passed by the House of Lords on the 29th July, 1948, and by the House of Commons on the 27th July, 1948.

SCHEDULE

The National Insurance (Industrial Injuries) Colliery Workers Supplementary Scheme

1.—(1) In this Scheme the expressions following shall have the following meanings where the context so admits:— Definitions.

"The Act"	means the National Insurance (Industrial Injuries) Act, 1946.
"The National Insurance Acts"	means the National Insurance Act, 1946, and the Act. 9 & 10 Geo. 6. c. 67.
"The Minister"	means the Minister of National Insurance.
"The Board"	means the National Coal Board.
"small mine owner"	means any individual working coal by virtue of the grant of a gale in the Forest of Dean or in any other part of the hundred of St. Briavels and any person or body of persons for the time being engaged in coal mining activities by virtue of a licence granted by the Board under paragraph (*a*) of subsection (2) of section 36 of the Coal Industry Nationalisation Act, 1946. 9 & 10 Geo. 6. c. 59.
"Division"	means that territory which is administered by one of the Divisional Headquarters established by the Board.
"The Scheme"	means this Scheme as originally made or as from time to time varied amended or modified.
"The National Committee" and "The Local Committees"	mean respectively the National Committee and the Local Committees for the time being constituted in accordance with the Scheme, and "the appropriate Local Committee" means, in relation to any colliery worker, the Local Committee for the Division in which he is employed or (where there is a separate Local Committee for a part of a Division) the Local Committee for the part of a Division in which he is employed.
"The Fund"	means the Fund established by the Scheme and the cash and investments for the time being representing the same.
"supplementary contributions"	means the contributions to be paid by the employers and colliery workers respectively under the Scheme.
"supplementary benefits"	means the benefits provided under the Scheme.
"The Auditors"	means such persons as the National Committee with the approval of the Minister shall from time to time appoint to act as Auditors to the Scheme.
"The Actuary"	means such person as the National Committee with the approval of the Minister shall from time to time appoint to act as Actuary to the Scheme.

" employer "	means the Board or any small mine owner who is for the time being engaged in coal mining activities other than opencast working and " the employers " means the Board and all such small mine owners.
" colliery worker "	means any person employed on or after the 5th July, 1948, by an employer in insurable employment otherwise than as a clerical worker in or about a colliery (other than an opencast working) who is below the rank of under-manager or any similar grade and who is in an employment which is from time to time certified for the purposes of the Scheme by the Board and the National Union of Mineworkers to be within the coal mining industry or, if the Board and the National Union of Mineworkers cannot agree, is so determined in accordance with Article 30 of the Scheme.
" determining authority "	means, in relation to any claim or question arising under the Act, the authority by whom that claim or question is to be determined under the Act.
" colliery accident "	means any accident happening to a colliery worker on or after 5th July, 1948, and arising out of and in the course of his employment as a colliery worker, which is found by the determining authority to be an industrial accident as defined in subsection (5) of section 49 of the Act.
" colliery disease "	means, in relation to any colliery worker, any disease or personal injury prescribed under section 55 of the Act in relation to the employment of that colliery worker, which is determined as hereinafter provided to be due to the nature of his employment as a colliery worker and to have developed on or after 5th July, 1948.
" The Workmen's Compensation Scheme "	means the Scheme established by the Board pursuant to a resolution dated 2nd July, 1948, for providing benefits to persons in receipt of workmen's compensation or of benefits under the Pneumoconiosis (Benefit) Scheme, 1943(a).
" The Unions "	means the National Union of Mineworkers the National Association of Colliery Overmen, Deputies and Shotfirers and the British Association of Colliery Management.

Subject as aforesaid, words and expressions used in the Act shall bear the same meanings in the Scheme where the context so admits and references to the Act or to any regulation shall be construed as references to the same as amended by any subsequent enactment or regulation.

52 & 53 Vict. c. 63.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

(a) S.R. & O. 1943 (No. 886) I, p. 1016.

2. The Scheme shall be established and commence on the 2nd day of August, 1948. Commencement.

3. The Scheme shall be a contributory Scheme for supplementing the rights conferred by the Act on colliery workers by providing additional payments in cases in which injury benefit or a disablement pension or a death benefit to a widow or to a woman having care of a deceased colliery worker's child or children becomes payable under the Act in respect of a colliery accident or colliery disease. Scheme to be contributory.

4. Every colliery worker shall, for each contribution week after the commencement of the Scheme for which a contribution under the Act is payable in respect of his employment as a colliery worker, be liable to pay a weekly supplementary contribution at the rate following, namely:— Colliery workers' contributions.

(*a*) If a man over the age of eighteen ... ... 4d.
(*b*) If a woman over the age of eighteen ... ... 3d.
(*c*) If a boy under the age of eighteen ... ... 2½d.
(*d*) If a girl under the age of eighteen ... ... 2d.

5. The Board shall be liable to pay by way of supplementary contribution under the Scheme in respect of each period of four contribution weeks an aggregate sum equal to 4d. for each ton of the saleable output of deep-mined coal in Great Britain in that period, less £150,000 in each of the first five periods of four contribution weeks and £85,000 in each of the remaining such periods from the commencement of the Scheme to 31st December, 1949, and in each period of four contribution weeks in any subsequent year one thirteenth of such amount as shall from time to time be certified by an actuary appointed for the purpose by the Minister as required in that year for securing the benefits to be provided under the Workmen's Compensation Scheme. Board's contributions.

6. For the purpose of ascertaining the contributions payable by the Board the saleable output of deep-mined coal in Great Britain in any period of four contribution weeks shall be such amount as is certified by the Secretary of the Board as the saleable output for that period. Ascertainment of Board's contributions.

7. In respect of the contribution week commencing on the 2nd day of August, 1948, and of the 15 contribution weeks next following, the supplementary contributions payable by the colliery workers shall, instead of the rate above set forth, be at the rate following, namely:— Increase of contributions for initial period.

(*a*) For men over the age of eighteen ... ... 5d.
(*b*) For women over the age of eighteen ... ... 4d.
(*c*) For boys under the age of eighteen ... ... 3½d.
(*d*) For girls under the age of eighteen ... ... 2½d.

and the sum per ton of saleable output by reference to which the supplementary contributions of the Board are to be calculated shall be 5d. instead of 4d.

8. The employer shall in the first instance be liable to pay both the supplementary contribution payable by himself (if any) and also on behalf of and to the exclusion of the colliery worker, the supplementary contribution payable by the colliery worker and for the purposes of the Scheme supplementary contributions paid by an employer on behalf of a colliery worker shall be deemed to be supplementary contributions by the colliery worker. Payment of contributions.

9. The provisions of sections 4 and 5 of the Act (which relate to the recovery of contributions) shall be applicable for the purposes of the Scheme as if references in those sections to contributions included supplementary contributions. Recovery of contributions.

Payment of contributions by small mine owners to Board.

10. On the last day of the first period of four contribution weeks from the commencement of the Scheme and on the last day of every subsequent period of four contribution weeks every small mine owner shall pay to the Board the amount of the supplementary contributions payable for such four contribution weeks by such small mine owner's colliery workers and such amount shall be a debt recoverable by the Board from such small mine owner. Every such payment shall be accompanied by a statement showing how the amount paid is made up and if it shall be subsequently discovered that the amount so shown and paid was greater or less than the true amount payable the overpayment or underpayment shall be adjusted by a deduction from or addition to the next succeeding payments required to be made in so far as they are sufficient for the purpose and if they are not so sufficient the excess or deficiency shall be payable in cash on demand by the Board or the small mine owner, as the case may be.

Payment of contributions by Board to Fund.

11. Within seven days after the last day of every period of four contribution weeks hereinbefore referred to the Board shall pay to the National Committee—

(*a*) all sums received by them from small mine owners in respect of their colliery workers' supplementary contributions for such four contribution weeks, and

(*b*) the amount of the supplementary contributions for such four contribution weeks payable by the Board and the Board's colliery workers, provided that the Board shall on the 2nd day of August, 1948, pay to the National Committee in advance and on account of their own supplementary contributions a sum of £50,000 and may at any time at the request of the National Committee make such further advances on account of their own contributions as may, in the opinion of the Board, be necessary for the purposes of the Scheme: on every four-weekly payment to be made by the Board pursuant to this Article the Board shall be entitled to take credit for such portion (not exceeding the aggregate amount of their own supplementary contribution for the relevant four contribution weeks) of the said sum of £50,000 and of such further advances as they shall think fit and pay the amount for which they are liable under this Article after deduction therefrom of the amount for which credit is so taken.

Every such payment shall be accompanied by a statement showing how the amount paid is made up and if it shall be subsequently discovered that the amount so shown and paid was greater or less than the true amount payable the overpayment or underpayment shall be adjusted by a deduction from or addition to the next succeeding payments required to be made.

Constitution of Fund.

12. The moneys received by the National Committee under the preceding provisions and the investments for the time being representing the same shall constitute the Fund.

Benefits to be paid by Minister.

13.—(1) Subject as hereinafter provided, the following supplementary benefits shall be paid by the Minister out of moneys to be provided from the Fund:—

(*a*) to any person who has become entitled under the Act to injury benefit in respect of a colliery accident or colliery disease a supplementary injury benefit payable for each day in respect of which he receives such injury benefit under the Act, at the weekly rate of twenty shillings or, if he is under the age of 18, four-ninths of the rate of the injury benefit to which he is for the time being entitled under the Act (excluding any increase of injury benefit under sections 17 and 18 of the Act);

(*b*) to any person who has become entitled under the Act to a disablement pension in respect of a colliery accident or colliery disease, during any period for which he is in receipt of a disablement pension,

a supplementary disablement pension of one-third of the disablement pension to which he is for the time being so entitled under the Act;

(*c*) to the widow of a colliery worker who has become entitled under the Act to death benefit in respect of the death of that colliery worker as the result of a colliery accident or colliery disease, a supplementary widow's pension payable so long as she continues to receive a pension under section 19 of the Act at the following rates—

(i) for any period during which the widow has not attained the age of 40 years and does not satisfy the conditions of either paragraph (*a*) or paragraph (*c*) of subsection (3) of section 19 of the Act, at the weekly rate of five shillings,

(ii) for any period after she has attained the age of 40 years or during which she satisfies either of the aforesaid conditions, at the weekly rate of twenty shillings:

Provided that where the widow was not residing with the deceased at his death the supplementary widow's pension shall be payable only if the aggregate weekly rate of the payments referred to in subsection (1) of section 19 of the Act exceeds the weekly rate of the pension payable to her under paragraph (*a*) of subsection (2) of section 19 of the Act in which event the weekly rate of the supplementary widow's pension shall be the amount of such excess or the rate payable under the foregoing provisions of this Article whichever is the less;

(*d*) to a woman having the care of the child or children of a colliery worker who has become entitled under section 24 of the Act to death benefit in respect of the death of that colliery worker as the result of a colliery accident or colliery disease, a supplementary allowance at the weekly rate of twenty shillings payable so long as she continues to receive an allowance under section 24 of the Act.

(2)—(*a*) When under the provisions of sections 29 or 30 of the Act any injury benefit or disablement pension to which a person is or would but for those provisions be entitled in respect of a colliery accident or colliery disease is extinguished or the rate thereof is reduced by reference to any other benefit payable to such person, he shall, subject as next hereinafter provided, be treated, for the purposes of this Article, as if he were in fact receiving such injury benefit or disablement pension at the rate at which it would be payable but for such extinguishment or reduction, and any supplementary benefit payable in respect thereof shall be calculated accordingly.

(*b*) Where a person suffers two or more colliery accidents and/or colliery diseases he shall not for the same period be entitled to receive supplementary benefit at an aggregate weekly rate exceeding—

(i) if he is for the same period entitled to supplementary injury benefit and to one or more supplementary disablement pensions, the weekly rate of supplementary injury benefit appropriate in his case, or

(ii) in any other case, the weekly rate of the supplementary disablement pension appropriate in his case to an assessment of disablement of 100 per cent.

(*c*) For the purpose of calculating the rate of supplementary disablement pension the expression "disablement pension" does not include any increase of disablement pension under sections 13 to 18 (both inclusive) of the Act, but includes any pension awarded in lieu of a disablement gratuity.

(3) Where any sum payable by way of supplementary benefit would but for this provision 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.

Benefits to be paid by Board.

14.—(1) If any person who is entitled to a supplementary disablement pension is at any time employed in insurable employment, then for so long as he continues to be so employed and for four weeks after he ceases to be so employed any supplementary benefit to which that person is entitled shall (subject to paragraph (2) of this Article) be payable not by the Minister but by the Board, so however that if any supplementary benefit is paid by the Minister in respect of any such period it shall be deemed to have been paid by the Board.

(2) The supplementary benefit payable by the Board under this Article shall be payable (*a*) during the first three months of employment, at a rate calculated in accordance with Article 13 hereof, and (*b*) after the first three months of employment and so long as the person continues to be so employed, at a rate calculated as aforesaid or at a rate equal to the amount by which his pre-accident earnings exceed the sum of his post-accident earnings and of any benefits (other than any increase thereof in respect of constant attendance under section 15 of the Act) to which he may be entitled under the National Insurance Acts, whichever is less.

Pre-accident and post-accident earnings.

15. For the purpose of Article 14, pre-accident earnings and post-accident earnings shall be ascertained as follows:—

(*a*) "pre-accident earnings" means in relation to any person either (i) that person's average weekly earnings as a colliery worker during the twelve months next preceding the accident or the development of the disease if he has been so long employed in the same grade by the same employer, but if he has not been so long employed then for any less period during which he has been in the employment of the same employer in the same grade, or (ii) if greater, £5 15s. 0d. per week if the person was when so employed an underground worker, or £5 0s. 0d. per week if he was when so employed a surface worker;

(*b*) "average weekly earnings" shall be assessed in accordance with the rules for determining average weekly earnings contained in section 10 of the Workmen's Compensation Act, 1925, and may be reviewed from time to time in accordance with the rules of calculation contained in section 11 of the said Act and in section 6 of the Workmen's Compensation Act, 1943, so however that no account is to be taken of periods during which the person was in receipt of injury benefit, unemployability supplement, sickness benefit or unemployment benefit;

15 & 16 Geo. 5. c. 84.

6 & 7 Geo. 6. c. 6.

(*c*) "post-accident earnings" of any person shall be deemed to be, during any period of three months of insurable employment in respect of which that person is entitled to supplementary benefit (other than the first three months of such employment), the average weekly remuneration received by such person during the preceding three months as certified by his employer or, in default of such certificate or if such certificate be not accepted by such person or by the Board, as may be determined by the appropriate Local Committee.

Interim benefits.

16. Where any person is in receipt of benefit under the Act during a period intervening between an application for the determination of his claim to benefit under the Act or any question arising in connection with such claim or with an award and the final determination of the claim or question, then the supplementary benefits (if any) to which such person would be entitled on the basis of his being found entitled under the Act to the benefit of which he is so in receipt shall be payable to such person.

Repayment of benefits.

17. Where pursuant to section 52 of the Act or any regulations made thereunder any person is required to repay the whole or any proportion of the benefit which he has received under the Act, then he shall also repay to the Trustees of the Fund the whole or a like proportion of the corre-

sponding supplementary benefits received by him by reference thereto and any supplementary benefit so required to be repaid may if not so repaid be deducted from any supplementary benefit then or thereafter payable to that person.

Claims for damages.

18.—(1) If any person in receipt of or entitled to supplementary benefits shall make any claim against the employer in whose service the relevant accident or disease occurred or was contracted for damages or compensation either at common law or under the provisions of any statute for the injuries or death caused by the relevant accident or disease and such person shall receive from such employer any moneys either under a judgment or in respect of or by way of compromise of such claim then such employer shall forthwith notify the National Committee, the Minister and the Board of the circumstances and of the amount of the moneys so received, and thereupon—

(*a*) the amount of the supplementary benefits paid to that person in respect of the relevant accident or disease during the period between the date of the accident or development of the disease and the date of the receipt of such moneys, or half the amount of the moneys so received, whichever is the less, shall become payable by that person to the Trustees of the Fund on demand by the National Committee and if such amount be not paid within two months of written notice demanding payment that person shall forfeit his rights to any further supplementary benefits in respect of that accident or disease up to the amount so repayable;

(*b*) if half the amount of the moneys so received exceeds the supplementary benefits paid during the interim period between the date of the accident or development of the disease and the date of the receipt of such moneys, no supplementary benefits shall be payable after the date of the receipt of such moneys until the supplementary benefits so withheld together with the amount repaid under sub-paragraph (*a*) equals half the amount of the moneys so received or until 4 years from the date of the accident or disease whichever first occurs; and after such date any supplementary benefits shall be payable in full.

(2) The National Committee shall from time to time give to the Board and the Minister such information and instructions as may be necessary for giving effect to the preceding provisions of this Article, and the Board and the Minister shall make or withhold payments of supplementary benefits in accordance with such instructions.

Disqualifications, forfeitures and suspensions.

19. The provisions of sections 32 and 33 of the Act relating to disqualifications forfeitures and suspensions and of any regulations made thereunder shall be applicable with the necessary modifications to supplementary benefits as the same apply to benefits under the Act but so that the supplementary benefit payable to any person to whom any benefit is payable by virtue of paragraph (2) of regulation 24 of the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(a), shall not exceed one-third of the benefit so payable by reference to which the supplementary benefit is payable.

Benefits inalienable.

20. Subject to the provisions of the Scheme the provisions of section 28 of the Act (which relates to inalienability of benefits) shall be applicable with the necessary modifications to supplementary benefits as the same apply to benefits under the Act.

Time and manner of payment of benefits by Minister.

21. The provisions of section 27 of the Act and of any regulations made thereunder relating to time and manner of payment of benefits shall be applicable with the necessary modifications to payment by the Minister of supplementary benefits as the same apply to benefits under the Act.

Rules for payment of benefits by Board.

22. The Board shall with the approval of the National Committee make and publish rules as to the time and manner of payment of supplementary benefits payable under the Scheme by the Board and may from time to

(a) S.I. 1948 No. 1372, p. 2918 above.

time with the like approval revoke amend or vary such rules, and the time and manner of payment of supplementary benefits payable by the Board shall be regulated by the rules made under this Article and for the time being in force.

Payment to Minister.

23. The National Committee shall at such times and in such manner as the Minister shall from time to time direct pay to the Minister out of the Fund such amounts as the Minister shall certify as being required to provide the moneys for payment of the supplementary benefits payable by the Minister and also such amounts as the Minister with the concurrence of the Treasury shall from time to time certify to be required to meet the costs of the Minister's participation in the administration of the Scheme.

Reimbursement of Board.

24. The National Committee shall at the end of each period of four contribution weeks pay to the Board out of the Fund a sum equal to the amount which shall be certified by a duly authorised officer of the Board to have been expended by the Board during such period in the payment of supplementary benefits payable by the Board, and the National Committee shall on the 30th day of June and the 31st day of December in each year pay to the Board out of the Fund such amount as shall be certified by a duly authorised officer of the Board to be required to meet the costs of the Board's participation in the administration of the Scheme during the preceding half year on such basis as shall be agreed between the Board and the National Committee as fair and reasonable, or in default of agreement as may be determined by an accountant to be nominated by the President for the time being of the Institute of Chartered Accountants.

Exchange of information.

25. The National Committee, the Board and the Minister shall each supply to the other or others from time to time such information, accounts and documents as may be reasonably required for the purposes of or in connection with the Scheme. The National Committee and the Board shall supply to the Minister from time to time such information, accounts and documents as he may reasonably require for the purposes of section 83 of the Act.

Admission and rejection of claims under Act.

26. A claim for benefit under the Act by or in respect of a colliery worker shall constitute a claim for the corresponding supplementary benefit, if any, and the admission, rejection, or review of such claim under the Act shall constitute the admission, rejection or review of the claim for such corresponding supplementary benefit, provided that if any question arises as to whether an accident or disease in respect of which supplementary benefit is claimed constitutes a colliery accident or colliery disease, as the case may be, that question shall be decided as hereinafter provided.

Determination of questions under Act.

27. The determination under the provisions of the Act of any question or dispute which may arise in connection with any claim to benefit under the Act and in particular, but without prejudice to the foregoing, of any question whether an accident is an industrial accident or whether a disease is prescribed in relation to any person and if so whether it is due to the nature of insurable employment, shall be conclusive for the purposes of the Scheme to the same extent as it is conclusive for the purposes of the Act.

Determination of questions under Scheme.

28.—(1) Subject to the provisions of Articles 26 and 27 hereof, every question or dispute which may arise in connection with any claim to supplementary benefit whether as regards the administration of the Scheme or the interpretation or construction of any provision thereof (other than a question relating to the administration by the Minister of the Scheme or the payment by him of supplementary benefits) shall be referred to and determined in the first instance by the appropriate Local Committee of the colliery worker by or in respect of whom the claim was made, so however that if his appropriate Local Committee at the date when the question or dispute arises is not the Local Committee which was his appropriate Local Committee at the date of the relevant accident or disease then the reference and determination shall be to and by the Local

Committee which was the appropriate Local Committee at the date of the relevant accident or disease unless the Board shall determine otherwise.

(2) Subject as aforesaid and without prejudice to the generality of paragraph (1) of this Article, every question whether the employment out of and in the course of which an accident arose or to the nature of which a disease was due was employment as a colliery worker shall be determined in accordance with the provisions of paragraph (1) of this Article.

Appeals to National Committee.

29. Every decision made by a Local Committee on a reference to it under the last preceding Article shall be subject to appeal to the National Committee whose decision shall be final.

References by employers and Unions.

30. Subject to the provisions of Articles 26 and 27 hereof, the employers or the Unions or any of them may at any time (whether or not in connection with any claim to supplementary benefits made or contemplated) refer any question or dispute as regards the administration of the Scheme or the interpretation or construction of any provision thereof (other than a question relating to the administration by the Minister of the Scheme or the payment by him of supplementary benefits) to any Local Committee or to the National Committee and any Local Committee to which any such reference is made shall determine the same subject to appeal to the National Committee and the National Committee shall determine any question or dispute referred to it direct hereunder or by way of appeal from a Local Committee and its decision shall be final.

Right of audience of employers and Unions.

31. The Board, the Federation of Small Mines of Great Britain and the Unions shall be given notice of and shall be entitled to be heard on every reference to a Local Committee or to the National Committee and the decision on the reference shall be published and (subject to an appeal from the Local Committee to the National Committee) shall be binding on them and on all other parties (if any) to the question in dispute.

Rules of procedure.

32. The National Committee may, subject to the approval of the Minister, make and from time to time revoke or vary rules governing the procedure of the Local Committees and the National Committee in the conduct of references to them respectively and of appeals from the Local Committees to the National Committee under the foregoing provisions in that behalf and as to the evidence upon which they may act in determining questions and disputes submitted to them. Whenever for the due determination of any such question or dispute any document or information shall be required which it is within the power of any employer or other person party to the reference or claiming under or bound by the Scheme to produce or furnish, then such employer or other person shall be bound to produce or furnish the same to the Local Committee or as the case may be the National Committee upon being called upon by it so to do. The provisions of paragraph (*c*) of subsection (1) of section 67 of the Act as to offences and penalties shall be applicable as if references therein to benefit or other payment under the Act were references to supplementary benefit or other payment under the Scheme and the reference to any purpose connected with the Act were a reference to any purpose connected with the Scheme and any offence committed under the said paragraph as made applicable by this Article shall be deemed to be an offence under the Act, so however that where anything is done for the purposes of the Act it shall not be deemed also to have been done for the purposes of the Scheme by reason only of the fact that if a claim were established to benefit under the Act any person would also be entitled to supplementary benefit under the Scheme.

Rules for administration

33. The National Committee may, subject to the approval of the Minister, make, and from time to time revoke or vary, rules for the general administration of the Scheme by the National Committee not being inconsistent with the provisions of the Scheme.

Rules for local administration.

34. Each Local Committee shall have power, subject to the approval of the National Committee, to make, and from time to time revoke or vary, rules for the local administration of the Scheme not being inconsistent with the provisions of the Scheme or of any rules made by the National Committee under the last preceding Article and for the time being in force.

Constitution of National Committee.

35. The National Committee shall consist of ten members of whom five shall be employers' representatives and five shall be colliery workers' representatives. Of the employers' representatives four shall be appointed and may be removed by the Board and one shall be appointed and may be removed by the Federation of Small Mines of Great Britain. Of the colliery workers' representatives four shall be appointed and may be removed by the National Union of Mineworkers and one shall be appointed and may be removed by the Minister, the person appointed by the Minister to be some person whom he shall, after consultation with such body or bodies representing colliery workers who are not members of the National Union of Mineworkers as appear to him to be appropriate to be consulted, consider suitable to represent such colliery workers. The Minister and each body entitled to appoint members of the National Committee may in respect of each person appointed by him or it appoint and remove a person to be an alternate member of the National Committee, and such alternate member shall in the absence of such member be entitled to attend and vote at all meetings of the National Committee on behalf of the member in respect of whom he is appointed and generally in the absence of such member to perform and exercise all the duties, powers and discretions of such absent member.

Appointment and removal of members of National Committee.

36. The appointment and removal of any member of the National Committee and of any alternate member thereof shall be effected by an instrument in writing signed as the case may be by or on behalf of the Minister or the body making the appointment or effecting the removal, delivered at the principal office of the Board and to the National Committee. Whenever a vacancy occurs on the National Committee it shall be filled by a new appointment by the Board the Federation of Small Mines of Great Britain the National Union of Mineworkers or the Minister as the case may be.

Terms of appointment.

37. Any appointment of a member or alternate member of the National Committee may be expressed to be for some specified term, or until the happening of some specified event, and upon the expiration of such term or the happening of such event the member or alternate member so appointed shall cease to be a member or alternate member of the National Committee.

Determination of appointment.

38. The office of a member or alternate member of the National Committee shall determine if he shall by instrument in writing delivered to the National Committee resign his office or if he shall become bankrupt or of unsound mind.

Chairman of National Committee.

39. The Board shall appoint the Chairman of the National Committee from amongst the members of the committee appointed by them and may prescribe the period for which he is to hold the office of Chairman.

National Committee proceedings.

40. The National Committee may meet together for the dispatch of business, adjourn and otherwise regulate its proceedings as it thinks fit. The Chairman of the Committee shall take the chair at every meeting at which he is present but if he be not present the members of the Committee present at the meeting shall choose one of their number from those appointed by the Board to be chairman of the meeting. The continuing members of the Committee may act notwithstanding any vacancy in its body provided that the necessary quorum is available to enable them to act. The quorum necessary for the transaction of the business of the Committee

shall be four of whom two must be employers' representatives and two must be colliery workers' representatives.

National Committee: determination of questions.

41. Questions arising at any meeting of the National Committee shall be determined by a majority of votes. In the case of an equality of voting the chairman of the meeting shall not have a second or casting vote.

Joint Secretaries.

42. There shall be two Joint Secretaries of the National Committee of whom one shall be appointed and may be removed by the employers' representatives and the other shall be appointed and may be removed by the colliery workers' representatives. If there shall for the time being be a vacancy in the office of Joint Secretary the surviving or continuing Joint Secretary shall have full power to act as Secretary of the National Committee and the National Committee may at any time and from time to time nominate any person to perform any of the duties of the Joint Secretaries of the National Committee in any case in which it is impracticable or inconvenient for the Joint Secretaries or surviving or continuing Joint Secretary to act. The National Committee may from time to time appoint such other officers and servants as may be requisite for its administration of the Scheme at such remuneration and upon such conditions as the National Committee shall deem proper. The remuneration of the Joint Secretaries shall also be such as the National Committee shall from time to time determine.

Sub-committees

43. The National Committee shall have power to appoint and to delegate all or any of its powers (other than its powers to make rules) to sub-committees consisting of one or more persons being members of its own body or of a Local Committee or officers or servants of the National Committee as the National Committee shall think fit and may make any rules for the conduct of the proceedings of any such sub-committee, and if any such sub-committee shall be appointed to deal with or inquire into any matter mainly or exclusively concerning the small mine owners, at least one such person nominated by the Federation of Small Mines of Great Britain shall be appointed to be a member of such sub-committee. The meetings and proceedings of every such sub-committee consisting of two or more persons shall be regulated by the provisions of the Scheme relating to the meetings and proceedings of the National Committee so far as the same may be applicable and are not superseded by any rules made under this Article by the National Committee.

Constitution of Local Committees

44. The National Committee shall establish a Local Committee for each Division or if it considers it requisite separate Local Committees each for some specified part of a Division in such manner and to consist of such persons as the National Committee shall determine or approve so however that each Local Committee shall be so composed that one half of the members thereof are representatives of the employers and the other half thereof are representatives of the colliery workers, and that if in the Division or part of a Division for which the Local Committee is appointed there shall be more than twenty mines worked by small mine owners, at least one of the employers' representatives shall be a person nominated by the Federation of Small Mines of Great Britain. The Chairman for alternate periods of a year (the period 2nd August, 1948, to 31st December, 1949, for this purpose being deemed to be a year) shall be a representative of the Board and of colliery workers respectively. Each Local Committee shall, subject to the approval of the National Committee, make rules for the conduct of its own proceedings, and in default of and subject to any such rules its proceedings shall with the necessary modifications be governed by the provisions of the Scheme relating to proceedings of the National Committee.

Administration by National Committee.

45. Save in respect of those matters the administration of which is vested in the Minister hereunder, the management and administration of the Scheme shall be vested in the National Committee and the costs of

such management and administration shall, subject to the approval of the Minister, in relation to such matters as he may direct, be borne by and paid out of the Fund.

Powers of investment.

46. Any moneys forming part of the Fund and not for the time being required for payments to be made thereout may at the discretion of the National Committee be invested in authorised securities not being securities to bearer.

Appointment of Nominee or Custodian Trustee.

47. The National Committee shall have power to appoint a Nominee or a Custodian Trustee approved by the Minister to hold on behalf of the National Committee investments of the Fund not being money on deposit or current account with any bank or banking house in Great Britain.

Appointment of Trustees.

48. Save in so far as any moneys, investments or other property are for the time being vested in any such Nominee or Custodian Trustee, the same shall be vested in the members of the National Committee (or in such two or more members as the National Committee shall from time to time determine) as Trustees. The members of the National Committee as such Trustees as aforesaid may act by a majority and, save that the quorum for meetings of the members as such Trustees shall be two, all the provisions of the Scheme relating to proceedings of the National Committee shall apply to the proceedings of members of the National Committee in their capacity as such Trustees.

Authorised securities.

49. The following shall be deemed to be authorised securities for the purposes of the Scheme:—

15 & 16 Geo. 5. c. 19.

(i) Investments authorised by the Trustee Act, 1925, or in which trustees are for the time being by law authorised to invest trust funds, including any investments which would but for the provisions of section 2 of that Act be authorised by section 1 of that Act.

(ii) The purchase of or the advance of money upon the security of any real or leasehold premises in Great Britain.

(iii) The purchase of or the advance of money upon the security of the stocks, bonds, mortgages, or securities of any Public Body, Board or Authority supplying power, water, gas or electricity, or of any Harbour Board or of any Municipal Corporation, County or District Council or other Local Authority acting under statutory powers in the United Kingdom, or in any British Dominion, Colony, Mandated or Trusteeship Territory, State or Dependency.

(iv) Any stocks, funds or securities of any British Dominion, Colony, Mandated or Trusteeship Territory, State, or Dependency, or of any Province thereof.

(v) Any stocks, bonds, mortgages, shares or securities, the capital whereof, or a minimum rate of interest on which, is guaranteed by the British Government, or the Government of any British Dominion, Colony, Mandated or Trusteeship Territory, State or Dependency, or of any Province thereof.

(vi) The purchase of or the advance of money upon the security of the bonds, debentures, debenture stock, mortgages or securities or guaranteed or preference stock or shares of any railway, shipping, tramway, canal, water, dock, harbour, gas, electricity, transport, or other like utility company, public or private, incorporated in the United Kingdom or any British Dominion, Colony, State or Dependency, by or under any General or Special Act of the Imperial Parliament, or of the Legislature of any British Dominion, Colony, State or Dependency, or by Royal Charter, and whether trading or carrying on business in the United Kingdom, India or any British Colony, Dominion, State or Dependency or elsewhere.

(vii) The advance of money in or upon the security of the rates, revenues, funds, property or profits of or leviable by or belonging to any Municipality, County or District Council, Local or Public Authority or Body in the United Kingdom or any British Dominion, Colony, State or Dependency and authorised by any Special or General Act of the

Imperial Parliament or the Legislature of such Dominion, Colony, State or Dependency to be mortgaged or charged.

(viii) Debentures, debenture stock, bonds or other obligations, of any company, public or private, incorporated with limited liability in the United Kingdom.

(ix) Preference, preferred or ordinary stock or shares of any public company incorporated with limited liability in the United Kingdom, the shares of which are quoted on the Stock Exchange, provided that (i) a dividend of at least 5 per cent. has been paid on the ordinary stock or shares of such Company for each of the ten previous years, and (ii) no additional money shall be invested in any such preference, preferred or ordinary stock or shares so long as the value of all preference, preferred or ordinary stock or shares held by the Fund in such companies equals or exceeds one quarter of the total value of the assets of the Fund, as to which the certificate of the Auditors shall be conclusive.

(x) The placing of money on deposit or on current account with any bank or banking house in Great Britain.

Power to borrow.

50. If and to the extent that at any time the National Committee shall consider it inadvisable to realise any investments forming part of the Fund they may borrow money on the security of any assets of the Fund for the purpose of making any payments which ought to be made out of the Fund.

Accounts.

51. The National Committee shall cause to be kept full and true accounts of the Fund and of all sums of moneys received and payments made by the National Committee and by all persons employed by or under the National Committee and shall cause to be kept full and correct records of all matters proper to be recorded. The accounts and records of the National Committee shall be at all times open to the inspection of the members of the National Committee and the Minister.

Annual statement.

52. The National Committee shall not later than the 31st day of May in every year, commencing in 1950, have prepared a statement of accounts including a balance sheet made up to the last day of the preceding December, which shall have attached a report of the National Committee on the working of the Scheme, and shall also have attached a report by the Auditors stating whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit, whether in their opinion proper books of accounts have been kept by the National Committee so far as appears from an examination of those books, and whether the accounts to which the report is attached, in their opinion and to the best of their information and according to the explanations given to them, give a true and fair view of the affairs of the Scheme and state of the Fund at the date of such accounts.

Auditors' access to books.

53. The Auditors shall have a right of access at all times to the books and accounts of the National Committee and all vouchers relating to the items shown therein, and shall be entitled to require from the National Committee and its officers such information and explanations as they deem necessary for the performance of their duties.

Delivery of annual statement.

54. A copy of every annual statement of accounts and of the National Committee's and Auditors' reports thereto attached shall, within forty-two days of the date on which the same is completed, be delivered to the Minister and to each of the bodies having the right hereunder to make appointments to the National Committee.

Actuarial reviews.

55. The Actuary shall review the operation of the Scheme during the period ending with the 31st day of December, 1951, and thereafter during the period ending with the 31st day of December in every fifth year and on each such review shall make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of the supplementary contributions to support the supplementary benefits. The Actuary shall also, if and when so required either by the Minister or by the National

Committee, make an interim review and report to the Minister on the operation of the Scheme for any shorter period. A copy of every review and report so made shall be delivered to the National Committee and to each of the bodies having the right hereunder to make appointments to the National Committee.

Deficiency in Fund.

56. If from the first or any quinquennial or interim review and report made under the last preceding Article it shall appear that the supplementary contributions are or are likely to be inadequate to support the supplementary benefits, then (save in so far as the solvency of the Fund may be secured by any temporary or permanent modifications in any of the rates of supplementary contribution or the rates or periods of supplementary benefits by order made pursuant to the provisions of subsection (8) of section 83 of the Act) the Board shall pay to the National Committee by way of addition to the Fund during the following period of such length not exceeding 20 years as shall be determined by the Board such periodical sum as shall be stated by the Actuary as in his opinion necessary to be paid over such period to secure the solvency of the Fund.

Review of Scheme.

57. If any alterations shall be made in the rates of contributions or amount or periods of benefits under the Act or in the national minimum wage rates or if the first or any quinquennial or interim report of the Actuary shall have disclosed a surplus or a deficiency in the Fund then in any such case the National Committee shall review the Scheme and shall recommend to the Minister such amendments or variations thereof if any as the National Committee shall consider desirable.

Termination of the Scheme.

58. Either of them the Board and the National Union of Mineworkers may at any time give not less than 12 months' notice to the Minister and to the other of them that it intends to withdraw from the Scheme, and upon the expiration of such notice, or of such extended period as the party giving the notice may consent to allow, the Scheme shall be terminated except so far as may be necessary for the purposes of Article 59 hereof, unless in the meantime the notice shall be withdrawn.

Winding up.

59.—(1) If the Scheme shall be terminated, the National Committee shall make provision in such manner as, acting on the advice of the Actuary and with the approval of the Minister, it may think fit—

(*a*) for the protection of any rights to supplementary benefits in respect of employment as a colliery worker before the date of such termination;

(*b*) in the event of there being any balance of the Fund after making such provision as aforesaid, for repaying to the Board the amounts (if any) which they may have paid to the Fund for the purpose of securing its solvency under the provision in that behalf hereinbefore contained;

(*c*) for the winding up of the Fund and for the disposal of any ultimate balance in such manner as the Minister after consultation with the National Committee shall direct.

(2) In the event of the Fund being insufficient for the purposes specified in sub-paragraph (*a*) of the preceding paragraph, then the Board shall pay to the Fund during the following period of such length not exceeding 20 years as shall be determined by the Board such periodical sum by way of addition to the Fund as shall be certified by the Actuary as in his opinion required to secure that the said purposes shall be fulfilled.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order approves for the purposes of the National Insurance (Industrial Injuries) Act, 1946, a Supplementary Scheme submitted by bodies representative of colliery workers (as defined in the Scheme) and their employers, for providing for additional payments in certain cases where, under the Act, injury benefit or a disablement pension is

payable to a colliery worker, or a pension or allowance is payable to the widow of a deceased colliery worker or to a woman having the care of his child or children.

Supplementary contributions under the Scheme are payable by the workers concerned and by the National Coal Board into a Fund from which the supplementary benefits are provided.

There is provision for the Minister of National Insurance to participate in the administration of the Scheme, and in general, for the supplementary benefits to be paid by him out of moneys provided by the Fund in conjunction with the corresponding benefits under the Act. In certain cases, however, the supplementary benefits will be paid by the National Coal Board out of moneys provided by the Fund.

National and Local Committees of employers and workers are established to decide questions arising under the Scheme, other than questions which involve decisions under the Act.

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6. CONTRIBUTIONS

[Collection of contributions, *see* NATIONAL INSURANCE AND INDUSTRIAL INJURIES, p. 3037 below.]

The National Insurance (Industrial Injuries) (Refund of Contributions) Regulations, 1948

1948 No. 1424

Made - - - -	*28th June*, 1948
Laid before Parliament	*29th June*, 1948
Coming into Operation	*5th July*, 1948

M.N.I./I.I.109.

The Minister of National Insurance, in exercise of powers conferred by sections 3 and 86 of, and Part III of the Second Schedule to, the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:— 9 & 10 Geo. 6. c. 62.

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

(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;

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.

2. Subject to the provisions of these regulations, any contributions paid under the Act by a person or his employer under the erroneous belief that the contributions were payable in respect of that person under the provisions of the Act shall be returned by the Minister to that person or his employer, as the case may require, if application to that effect is made in writing to the Minister within the appropriate time specified in regulation 5. Return of contributions paid in error.