CHAPTER 82.

An Act to make provision as respects certain personal injuries sustained during the period of the present emergency.

[3rd September 1939.]

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

Allowances and pensions in respect of certain war injuries and war service injuries.

1.—(1) The Minister may make a scheme, with the approval of the Treasury and in accordance with the provisions of this Act, providing for the making of payments in respect of the following injuries sustained during the period of the present emergency, namely—

(*a*) war injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified in the scheme) and by persons of such other classes as may be so specified; and

(*b*) war service injuries sustained by civil defence volunteers.

(2) In respect of any such injury, a scheme may authorise the Minister, in such circumstances and subject to such conditions as may be specified in the scheme, to

make the following payments to or in respect of the person injured, namely—

(*a*) payments by way of allowance (hereafter in this Act referred to as "injury allowances"), which shall be payable only so long as the person injured is incapacitated for work by the injury and has not received any such payment as is mentioned in the next following paragraph; and

(*b*) payments by way of pension or grant, which shall be payable only where the injury causes serious and prolonged disablement or death.

(3) A scheme may empower the Minister to make regulations for giving effect to the purposes of the scheme.

(4) Any decision of the Minister as to the making, refusal or amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied by a subsequent decision of the Minister, but save in so far as it is so varied shall be final and conclusive.

(5) All expenses incurred by the Minister in giving effect to a scheme shall be defrayed out of moneys provided by Parliament.

Procedure as to schemes.

2.—(1) A scheme may provide that it shall come into operation, or shall be deemed to have come into operation, on such date as may be specified therein.

(2) A scheme may be amended or revoked by a subsequent scheme or by an order made by the Minister with the consent of the Treasury.

(3) Every scheme, and every order made under the last preceding subsection, shall be laid before both Houses of Parliament as soon as may be after it is made, and if either House, within the period of forty days beginning with the day on which a scheme or such an order is laid before it, resolves that the scheme or order be annulled, it shall thenceforth become void, but without prejudice to the validity of anything previously done thereunder or to the making of a new scheme or order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which

Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(4) A scheme and any regulations made thereunder, and any order made under this Act, shall, for the purpose of section three of the Rules Publication Act, 1893 (which relates to the printing of statutory rules), be deemed to be statutory rules within the meaning of that Act, but shall not be deemed to be or to contain such statutory rules for the purpose of any other provision of that Act. 56 & 57 Vict. c. 66.

Relief from liability to pay compensation or damages.

3.—(1) In respect of a war injury sustained during the period of the present emergency by any person, and in respect of a war service injury sustained during that period by a civil defence volunteer, no such compensation or damages shall be payable, whether to the person injured or to any other person, as apart from the provisions of this subsection—

(*a*) would be payable under the Workmen's Compensation Acts, 1925 to 1938, or the Employers' Liability Act, 1880, or any corresponding enactment of the Parliament of Northern Ireland; or 43 & 44 Vict. c. 42.

(*b*) would, whether by virtue of any enactment, by virtue of any contract, or at common law, be payable—

(i) in the case of a war injury, by any person; or

(ii) in the case of a war service injury sustained by a civil defence volunteer, by the employer of the volunteer, by any person who has any responsibility in connection with his duties as a volunteer or by any other civil defence volunteer;

on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) The failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury, if—

(*a*) an application for a payment under a scheme, or under any other enactment or instrument, has

been duly made to the Minister in respect of the injury; and

(*b*) the court before which the proceedings are brought is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the scheme or that other enactment or instrument, as the case may be; and

(*c*) the Minister certifies that the application was rejected, or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury; and

(*d*) the proceedings are commenced with one month from the date of the said certificate of the Minister.

Reduction of sick pay by amount of allowances.

4. Where an employee—

(*a*) is in receipt of an injury allowance under a scheme during a period for which he is incapacitated for work; and

(*b*) would, but for the provisions of this section, be entitled to receive a sum from his employer by way of wages or other emoluments in respect of that period;

the employer shall be under no obligation to pay to him in respect of that period an amount greater than the amount by which the said sum exceeds that allowance.

Information as to earnings.

5.—(1) Where it is necessary, in order to determine the amount of any payment to be awarded under a scheme in respect of any injury, to ascertain the earnings of the person injured in respect of any period before he sustained the injury, the Minister may by notice in writing require—

(*a*) any person who was an employer of the injured person during that period; and

(*b*) any other person having any knowledge with respect to the financial circumstances of the injured person during that period;

to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing any entries with respect to those earnings.

(2) If any person—

(*a*) fails to comply with the requirements of any such notice; or

(*b*) in purported compliance with any such notice, knowingly or recklessly makes any untrue statement or untrue representation, or produces any document which is false in a material particular or calculated to deceive;

he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty for false statements.

6. Any person who, for the purpose of obtaining a payment under a scheme, either for himself or for any other person, knowingly makes any untrue statement or untrue representation, shall be liable on summary conviction to imprisonment for a term not exceeding three months.

Assignments, &c., to be void.

7. Any assignment of, or charge on, and any agreement to assign or charge, any payment awarded or to be awarded under a scheme shall be void, and, on the bankruptcy of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or other person acting on behalf of the creditors.

Interpretation.

8.—(1) In this Act, unless the context otherwise requires,—

" civil defence organisation " means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purpose of this Act and the scheme;

" civil defence volunteer," in relation to an injury, means a person certified by a responsible officer of a civil defence organisation to have been a

member of that organisation at the time when the injury was sustained;

"enactment" includes any enactment of the Parliament of Northern Ireland;

"gainfully occupied person" means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though temporarily unemployed, is normally so engaged and dependent;

"The Minister" means the Minister of Pensions;

"period of the present emergency" means the period beginning with the commencement of this Act, and ending with such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end;

"scheme" means a scheme made under this Act;

"war injuries" means physical injuries—

(*a*) caused by—

(i) the discharge of any missile (including liquids and gas); or

(ii) the use of any weapon, explosive or other noxious thing; or

(iii) the doing of any other injurious act;

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(*b*) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of or for the benefit of, His Majesty or any allied power, or any part of, or anything dropped from, any such aircraft;

"war service injury" in relation to a civil defence volunteer, means any physical injury which the Minister certifies to have been shown to his

satisfaction to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time when the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity.

(2) No certificate shall be given by the Minister in relation to the definition of "war service injury" in the foregoing subsection, unless he has been furnished with a report about the injury in question by a responsible officer of the civil defence organisation of which the volunteer concerned was a member at the time when the injury was sustained and any such certificate may be revoked by the Minister at any time on new facts being brought to his notice.

Short title, extent and commencement.

9.—(1) This Act may be cited as the Personal Injuries (Emergency Provisions) Act, 1939.

(2) It is hereby declared that this Act extends to Northern Ireland.

(3) This Act shall come into operation, or shall be deemed to have come into operation, on such date as His Majesty may by Order in Council appoint.

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SIR WILLIAM RICHARD CODLING, C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament