STATUTORY INSTRUMENTS

1966 No. 165

WORKMEN'S COMPENSATION

The Workmen's Compensation (Supplementation) Scheme 1966

Laid before Parliament in draft

Made - - - - 17*th February* 1966
Coming into Operation 1*st March* 1966

Whereas a draft of the following Scheme was laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Minister of Pensions and National Insurance, with the consent of the Treasury, in exercise of powers conferred by the Workmen's Compensation (Supplementation) Act 1951(a), as amended and extended by the Workmen's Compensation and Benefit (Amendment) Act 1965(b), and of all other powers enabling her in that behalf, hereby makes the said Scheme:—

PART I
General

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Workmen's Compensation (Supplementation) Scheme 1966, and shall come into operation on 1st March 1966.

(2) In this Scheme, unless the context otherwise requires—

"the 1951 Act" means the Workmen's Compensation (Supplementation) Act 1951;

"the 1965 Act" means the Workmen's Compensation and Benefit (Amendment) Act 1965;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act 1965(c);

"the Minister" means the Minister of Pensions and National Insurance;

"allowance" means an allowance payable by virtue of Part II of this Scheme;

"beneficiary" means a person entitled to an allowance;

"the Board" means the Board established under Article 11 of this Scheme;

"claimant" means a person claiming an allowance and includes, in relation to the review of an award or a decision, a beneficiary under the award or affected by the decision;

"compensation scheme" means a scheme made under the Workmen's Compensation (Silicosis) Act 1918(d) (as originally enacted or as extended by the Workmen's Compensation (Silicosis) Act 1924(e)) or under section 47 of the Workmen's Compensation Act 1925(f) (as originally enacted or as extended by any subsequent enactment);

(a) 1951 c. 22. (b) 1965 c. 79. (c) 1965 c. 52.
(d) 1918 c. 14. (e) 1924 c. 40. (f) 1925 c. 84.

"corresponding disablement pension rate" means the weekly rate for the time being of a pension payable under section 12(5) of the Industrial Injuries Act in respect of an assessment of one hundred per cent.;

"Medical Board" means the Medical Board appointed under paragraph 3 of the Silicosis and Asbestosis (Medical Arrangements) Scheme 1931(a);

"pneumoconiosis" means fibrosis of the lungs due to silica dust, asbestos dust or other dust, and includes the condition of the lungs known as dust reticulation; and in the case of a person who suffers from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis may be treated as if they were effects of the pneumoconiosis;

"the relevant injury or disease" in relation to any person means the injury or disease in respect of which he is, or has since the appropriate date specified in Part II of this Scheme been, entitled to weekly payments by way of workmen's compensation;

"unemployment benefit" means unemployment benefit under the National Insurance Act 1965(b);

"workmen's compensation" means compensation under the Workmen's Compensation Acts 1925 to 1945, the enactments repealed by the Workmen's Compensation Act 1925 or the enactments repealed by the Workmen's Compensation Act 1906(c) or under any contracting-out scheme duly certified under any of those Acts;

(3) Any reference in this Scheme to the happening of an accident shall, in relation to a case of disease, be construed in the same way as for the purposes of the Acts relating to workmen's compensation.

(4) For the purposes of this Scheme—

(*a*) a person shall be deemed to be or have been entitled to weekly payments by way of workmen's compensation at any time if he would be or, as the case may be, have been so entitled at that time if—

(i) the amount of any payment, allowance or benefit received by him otherwise than by way of workmen's compensation, or

(ii) where the accident in consequence of which entitlement is deemed happened before 1st January 1924, either the said amount, or the amount he is earning or able to earn in some suitable employment or business, or both those amounts,

were sufficiently reduced.

(*b*) a payment—

(i) under the Workmen's Compensation (War Addition) Acts 1917 and 1919(d), or

(ii) under the Workmen's Compensation (Supplementary Allowances) Act 1940(e) as amended by the Workmen's Compensation (Temporary Increases) Act 1943(f),

shall be treated as a weekly payment by way of workmen's compensation.

(*c*) a period shall be treated as considerable if it lasts or can be expected to last for not less than thirteen weeks.

(*d*) a person may be treated as being, as the result of an injury or disease or as the joint result of two or more injuries or diseases, totally incapable of work and likely to remain so incapable for a considerable period notwithstanding that the disability resulting from the injury or

(a) S. R. & O. 1931/341 (Rev. XXIV, p. 642: 1931 p. 680).
(b) 1965 c. 51. (c) 1906 c. 58. (d) 1917 c. 42; 1919 c. 83.
(e) 1940 c. 47. (f) 1943 c. 49.

disease or, as the case may be, from the injuries or diseases taken together is not such as to prevent him from being capable of work, if it is likely to prevent his earnings (including any remuneration or profit derived from a gainful occupation) exceeding one hundred and four pounds a year.

(5) References in this Scheme to any enactment, scheme or regulations shall, unless the context otherwise requires, include references to such enactment, scheme or regulations as amended or reproduced by any subsequent enactment, order, scheme or regulations.

(6) Any notice or other document required or authorised to be given or sent to any person under the provisions of this Scheme shall be deemed to have been given or sent, if it was sent by post to that person at his ordinary or last known address.

(7) The provisions of Section 37 of the Interpretation Act 1889(a) and the rules for the construction of Acts of Parliament contained in that Act shall apply in relation to this instrument and in relation to the revocations effected by it as if this instrument and the instruments revoked by it were Acts of Parliament, and as if each revocation were a repeal.

PART II
Allowances

Basic allowances under Scheme

2.—(1) Subject to the following provisions of this Scheme, a person who is or since the commencement of the 1951 Act has been entitled to weekly payments by way of workmen's compensation in consequence of an accident happening before 1st January 1924, shall be entitled to a basic allowance payable out of the Industrial Injuries Fund during any period of total or partial incapacity for work resulting from the relevant injury or disease so long as he is ordinarily resident in the United Kingdom.

(2) In this Article the expression "a period of total incapacity for work resulting from the relevant injury or disease" includes a period during which a person is treated as subject to such an incapacity under the provisions of Article 3.

(3) The weekly rate of a basic allowance—

(*a*) in the case of a basic allowance payable to a person in respect of a period of total incapacity for work resulting from the relevant injury or disease shall be 40s., less the amount of his workmen's compensation ; and

(*b*) in the case of a basic allowance payable to a person in respect of a period of partial incapacity for work resulting from the relevant injury or disease shall be the difference between two-thirds of the amount representing his weekly loss of earnings (ascertained in accordance with Article 7) due to the relevant injury or disease and the amount of his workmen's compensation, so however that the aggregate of the said weekly rate and the amount of his workmen's compensation shall in no such case exceed 40s.

Partial incapacity to be treated as total in certain cases

3.—(1) For the purpose of the references in Article 2 to a period of total incapacity for work resulting from the relevant injury or disease, a person who is unable to obtain employment shall, subject to the provisions of paragraph (3) of this Article, be treated as subject to such an incapacity:—

(a) 1889 c. 63.

(*a*) if he is being treated as being so for the purposes of his workmen's compensation in respect of the relevant injury or disease: or

(*b*) if it appears to the Board—

(i) that, having regard to all the circumstances, it is probable that he would, but for the continuing effects of the relevant injury or disease, be able to obtain work in the same grade in the same class of employment as before the happening of the accident; or

(ii) that his inability to obtain employment is a consequence, wholly or mainly, of the relevant injury or disease.

(2) Where a person who is unable to obtain employment fails to satisfy the conditions laid down in paragraph (1) of this Article because of the supervening effects of an injury or disease other than the relevant injury or disease, or of physical or mental infirmity due to old age, he shall nevertheless be deemed to satisfy the said conditions if he proves to the satisfaction of the Board—

(*a*) that he would have satisfied either of the conditions set out in sub-paragraph (*b*) of the said paragraph at the time when he first became subject to the aforesaid supervening effects and that he was then unable to obtain employment; and

(*b*) that since that time the effects of the relevant injury or disease have not become substantially less serious.

(3) This Article shall not apply to any person for any period for which he receives unemployment benefit.

(4) This Article shall also apply for the purposes of section 2(3) of the 1951 Act (which relates to the circumstances in which a person is to be treated as subject to total incapacity for work resulting from the relevant injury or disease).

Major incapacity allowances under Scheme

4.—(1) Subject to the following provisions of this Scheme, a major incapacity allowance shall be payable out of the Industrial Injuries Fund to a person who is or has since 5th July 1956 been entitled to weekly payments by way of workmen's compensation—

(*a*) in respect of any injury or disease other than pneumoconiosis or byssinosis if he is as a result of that injury or disease totally incapable of work and likely to remain so for a considerable period; or

(*b*) in respect of pneumoconiosis if he is certified under a compensation scheme or is determined in accordance with Article 14 of this Scheme, to be totally disabled; or

(*c*) in respect of byssinosis; or

(*d*) in respect of two or more injuries or diseases such as are mentioned in the three foregoing sub-paragraphs, if he is as the joint result of those injuries or diseases totally incapable of work and likely to remain so for a considerable period;

so long as he is ordinarily resident in the United Kingdom.

(2) The weekly rate of a major incapacity allowance payable to a person shall be the corresponding disablement pension rate less the amount of any workmen's compensation and less the amount of any basic allowance payable to him for that week.

(3) For the purposes of this Article an allowance payable by virtue of any scheme under the 1951 Act in force immediately before the coming into operation of this Scheme shall be treated as a weekly payment by way of workmen's compensation.

Lesser incapacity allowances under Scheme

5.—(1) Subject to the following provisions of this Scheme, a lesser incapacity allowance shall be payable out of the Industrial Injuries Fund to a person, not being a person entitled to a major incapacity allowance, who was immediately before the coming into operation of this Scheme receiving an allowance payable by virtue of a scheme under the 1951 Act in force at that time, or who is or has since the commencement of the 1965 Act been entitled or may be expected to be entitled to a basic allowance or to weekly payments by way of workmen's compensation, other than notional payments, for any period during which he is either totally or partially incapable of work as a result of the relevant injury or disease, and is ordinarily resident in the United Kingdom.

(2) The weekly rate of a lesser incapacity allowance payable to a person shall be determined by reference to the loss of earnings (ascertained in accordance with the provisions of Article 7) suffered by that person due to the relevant injury or disease; and where the loss of earnings, ascertained as aforesaid, is of an amount shown in the first column of Schedule 1 hereto, shall be the rate opposite thereto in the second column of that Schedule and where such loss of earnings is of an amount (not less than one shilling) not so shown, shall be the rate in the said column opposite to the next larger amount which is so shown:

Provided that—

(i) where the loss of earnings, ascertained as aforesaid, is in excess of the largest amount shown in the said first column the weekly rate of lesser incapacity allowance shall be the rate in the second column opposite to such largest amount; and

(ii) the weekly rate of lesser incapacity allowance payable to any person shall be reduced by the amount of any workmen's compensation payable to him for that week in excess of 40s.

(3) In this Article the expression "notional payment" means a payment by way of workmen's compensation awarded or paid for the purpose of safeguarding a potential entitlement to compensation and not related to any existing loss of earnings:

Provided that a weekly payment by way of workmen's compensation made to any person shall be deemed to be a notional payment for the purposes of this Article if—

(*a*) the amount of such weekly payment is less than sixpence; or

(*b*) during the period of twelve months immediately preceding 30th November 1965 either—

(i) no weekly payments by way of such compensation were made to that person; or

(ii) any such weekly payments made to him were of an amount less than sixpence;

unless that person proves to the satisfaction of the Board that such weekly payment is not a notional payment.

Amount of workmen's compensation

6.—(1) Any reference in Articles 2, 4 and 5 to the amount of a person's workmen's compensation shall (subject to the provisions of the following paragraphs of this Article) be taken as referring to the amount (if any) of the weekly payments to which for the time being he is, or would but for the determination of his right be, entitled in respect of the relevant injury or disease:

Provided that—

(*a*) where in fixing the amount of those weekly payments under the provisions relating thereto regard was had to any payment, allowance or benefit which he might receive during the period of his incapacity from the person liable for the compensation and the amount is shown to have been reduced in consequence, the amount of those weekly payments shall for the purposes of this Article be taken to be the reduced amount so fixed with the addition of the amount of the reduction; and

(*b*) where the amount of those weekly payments has not been fixed under the provisions relating thereto, it shall be fixed for the purpose of this Article without regard to any such payment, allowance or benefit as aforesaid; and

(*c*) where the Board is satisfied that an allowance or allowances under this Scheme would, apart from the provisions of this sub-paragraph, be payable or be payable at a higher rate by reason of the amount of those weekly payments, fixed under the provisions relating thereto, not being the amount which, in the opinion of the Board, ought reasonably and properly to be so fixed, the amount of those weekly payments shall, for the purposes of this Article, be taken to be such as the Board may determine ought reasonably and properly to be so fixed, having regard to the rules for calculating such weekly payments under the provisions relating to his workmen's compensation.

(2) Where a person is or since the commencement of the 1951 Act has been entitled to payments under the Workmen's Compensation (War Addition) Acts 1917 and 1919 but had before that commencement ceased to be entitled to any other weekly payments by way of workmen's compensation in respect of the relevant injury or disease, the amount of his workmen's compensation shall for the purposes of Articles 2, 4 and 5 be calculated as if he had not ceased to be entitled to such other payments.

(3) Where a person is or since the commencement of the 1965 Act has been entitled to payments under the Workmen's Compensation (Supplementary Allowances) Act 1940, as amended by the Workmen's Compensation (Temporary Increases) Act 1943, but had before that date ceased to be entitled to any other weekly payments by way of workmen's compensation in respect of the relevant injury or disease, the amount of his workmen's compensation shall for the purposes of Articles 4 and 5 be calculated as if he had not ceased to be entitled to such other payments.

(4) Where by reason of the seasonal nature of a person's employment, or for any other cause, weekly payments by way of workmen's compensation were not made to that person at the same rate for each week during the twelve months preceding the making of a claim for, or an application for review of a decision as to, an allowance, the amount of that person's workmen's compensation shall for the purposes of Articles 2, 4 and 5 be calculated or estimated in such manner and on such basis as may be decided by the Board to be appropriate, having regard to all the circumstances of the case.

Computation of loss of earnings

7.—(1) For the purposes of section 1(5)(*a*) of the 1965 Act and of this Scheme the amount representing a person's loss of earnings due to the relevant injury or disease shall, subject to the provisions of Article 10(1)(*b*) and of paragraph (2) of this Article be ascertained by comparing the standard of remuneration obtaining during the period of twelve months, or such shorter period as the Board may in their discretion determine, ending

with the date of the coming into operation of this Scheme, in the class of employment in which he was employed at the time when the accident happened with the amount which he was earning or able to earn during the said period in some suitable employment or business:

Provided that in assessing, in relation to any person, the standard of remuneration in any class of employment, regard shall be had to that person's reasonable prospects of advancement and the class of employment in which he was employed at the time when the accident happened shall be treated, for this purpose, as extending to and including employment in the capacities to which persons so employed are, in the normal course, advanced and to which if he had continued to be so employed, without the accident having happened, he would have had at least the normal prospects of advancement.

(2) In ascertaining the amount representing a person's weekly loss of earnings under paragraph (1) of this Article—

(*a*) where the class of employment in which he was employed at the time when the accident happened has ceased to exist or cannot be related to the wage structure obtaining from time to time in the industry in which he was employed at that time, the Board shall take the standard of remuneration to be such as appears to them to be appropriate, having regard to all the circumstances of the case;

(*b*) in a case of disease, where a person proves to the satisfaction of the Board that he left any class of employment as a result of the relevant disease before the date which was treated as his date of disablement from that disease for the purposes of the Acts relating to workmen's compensation, then any class of employment which he so left may be treated as the class of employment in which he was employed on the said date of disablement if it would have been so treated had the said date of disablement fallen immediately before he left that class of employment;

(*c*) the reference to the amount which a person was earning or able to earn in some suitable employment or business shall be taken as referring to such amount as that person would have been able to earn but for the supervening effects of an injury or disease other than the relevant injury or disease, or of physical or mental infirmity due to old age or of that person's retirement from any such employment or business;

(*d*) the Board may determine the amount which represents a person's weekly loss of earnings under paragraph (1) of this Article without having regard to the rules for calculating the weekly payments in the case of partial incapacity under the provisions relating to his workmen's compensation.

Corresponding payments under Northern Ireland legislation

8. Subject to the provisions of any reciprocal arrangements made by the Minister under Section 5 of the 1951 Act—

(*a*) a basic allowance shall not be payable to a person in respect of the relevant injury or disease for any period during which he is entitled under any legislation of Northern Ireland to any payment corresponding to a basic allowance in respect of the said injury or disease; and

(*b*) a major incapacity allowance shall not be payable to a person for any period during which he is entitled under any legislation of Northern Ireland to any payment corresponding to a major incapacity allowance; and

(*c*) a lesser incapacity allowance shall not be payable to a person for any period during which he is entitled under any legislation of Northern Ireland to any payment corresponding to a major incapacity allowance or to a lesser incapacity allowance.

Allowances payable to beneficiaries who have ceased to be ordinarily resident in the United Kingdom

9. Where a beneficiary ceases to be ordinarily resident in the United Kingdom he shall not by reason of that fact cease to be entitled to allowances under this Scheme—

(*a*) where an application for a reference to a medical referee has been made and the medical referee certifies in accordance with paragraph 18 of Schedule 1 of the Workmen's Compensation Act 1906 or section 16 of the Workmen's Compensation Act 1925 that the incapacity resulting from the relevant injury or disease is likely to be of a permanent nature; or

(*b*) where no such application has been made, if the Board is satisfied that the said incapacity is likely to be of a permanent nature.

Allowances in respect of two or more different injuries or diseases

10.—(1) Where a claimant or beneficiary is entitled for the same period to weekly payments by way of workmen's compensation in respect of two or more different injuries or diseases, or has been so entitled at any time since, in the case of basic allowance the commencement of the 1951 Act or, in the case of any other allowance the commencement of the 1965 Act,—

(*a*) he shall, subject to the provisions of this Scheme, be entitled to an allowance under this Scheme in respect of each such injury or disease during any period of total or partial incapacity for work resulting from that injury or disease:

Provided that

(i) he shall not for the same period be entitled to receive two or more basic allowances at an aggregate weekly rate which exceeds 40s.; and

(ii) he shall not in respect of any period for which he is entitled to a major incapacity allowance by reason of one or the joint result of two or more of such injuries or diseases, be entitled to receive any other allowance under this Scheme, except for a basic allowance, by reason of any injury or disease; and

(iii) he shall not for the same period be entitled to receive two or more lesser incapacity allowances at an aggregate weekly rate which exceeds 47s. 6d.;

(*b*) in ascertaining for the purposes of this Scheme the amount of his loss of earnings due to the relevant injury or disease the joint results of both or all such injuries or diseases may, in the discretion of the Board, be treated as the result of any one of them but, in respect of any period during which such results are so treated, he shall not be entitled to receive more than one basic allowance or more than one lesser incapacity allowance under this Scheme.

(2) Where a claimant or beneficiary is entitled for any period to an allowance under any scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954—

(*a*) in respect of total disablement or total incapacity for a considerable period, he shall not be entitled to receive, for that period, any allowance under this Scheme;

(*b*) in respect of partial disablement, he shall not be entitled to receive by way of lesser incapacity allowance, for that period, a total weekly sum exceeding 17s. 6d.

(3) A person shall not, in respect of the same period, be entitled to receive two or more allowances under this Scheme or under this Scheme and a scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954 at an aggregate weekly rate exceeding the corresponding disablement pension rate.

PART III

Constitution and Procedure of the Board

Constitution of the Board

11.—(1) There shall be established for the administration of this Scheme and for the determination of all questions assigned to them under this Scheme, a Board consisting of—

(*a*) members appointed by the Minister, of whom one third shall be chosen after consultation with such organisations representing employers and one third after consultation with such organisations representing employed persons, as the Minister thinks fit; and

(*b*) a Chairman and deputy Chairman appointed by the Minister.

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

(3) The Chairman and deputy Chairman and other members of the Board shall hold office for such periods as the Minister may fix in any particular case and shall be eligible for re-appointment.

(4) The Minister shall appoint a Secretary to the Board.

General procedure

12.—(1) The Board may meet together for the determination of all questions assigned to them under this Scheme and for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

(2) The proceedings of the Board shall not be invalidated—

(*a*) by any vacancy in their number or by any defect in the appointment of any member thereof;

(*b*) by the absence from any meeting of the Board of any member thereof:

Provided that the Board shall not proceed with the determination of any such question as is mentioned in paragraph (1) of this Article or with the despatch of any other business if both the Chairman and the deputy Chairman are absent.

(3) Questions arising at any meeting shall be decided by a majority vote and in the case of an equality of votes, the Chairman, or in his absence, the deputy Chairman, shall have a second or casting vote.

(4) The Board may delegate any of their powers to a sub-committee of the Board consisting of the Chairman or deputy Chairman and such other members as the Board may determine, and in particular may authorise any such sub-committee to determine any question assigned to the Board under this Scheme and to exercise any of the powers of the Board under Article 13 relating to such determination.

(5) Subject to the provisions of this Article and of Article 13, the procedure at any meeting of the Board shall be such as the Board may from time to time determine.

(6) Every document purporting to be an instrument issued by the Board, and to be signed by the Secretary to the Board or any person authorised to act in that behalf, shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

Procedure on determination of claims and questions arising in connection with claims and awards

13.—(1) Any claim for an allowance and any question arising in connection with a claim for or an award of an allowance (other than such a question as is mentioned in Article 14) shall be determined by the Board in accordance with the provisions of Article 12 and of this Article.

(2) Any claimant may make a request to the Board for a hearing for the determination of any claim or question which they are required to determine under paragraph (1) of this Article, and the Board shall grant such request unless they are satisfied that the claim or question can properly be determined without a hearing, in which event they shall inform the claimant in writing and may proceed to determine the case without a hearing.

(3) If, in accordance with the provisions of paragraph (2) of this Article a request for a hearing has been granted, or if notwithstanding that no request has been made, the Board are otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to the claimant.

(4) Every such hearing shall be in public, except in so far as the Board for special reasons may otherwise direct.

(5) The Board may by summons require persons to attend at any such hearing to give evidence and to produce documents reasonably required for the purpose of determining the claim.

(6) The claimant, or an association of employed persons of which the claimant is or has been a member, shall have a right of audience at any hearing by the Board of his case and may be represented by counsel or solicitor or other representative at any such hearing.

(7) If the claimant should fail to appear either in person or by representative at the hearing, the Board may proceed to determine the claim or question notwithstanding his absence or may give such direction with a view to the determination of the claim or question as they think proper.

(8) The Board shall in each case record their decision in writing and the claimant shall be informed in writing of the decision as soon as practicable.

(9) For the purpose of the determination of any question by the Board, the Board may refer to a medical practitioner for examination and report any question arising for their decision.

Reference of questions to the Medical Board

14.—(1) Where a claimant who is not certified under a compensation scheme as being totally disabled as a result of pneumoconiosis claims a major incapacity allowance, the question whether he is so disabled shall be referred by the Board for determination by the Medical Board:

Provided that—

(*a*) in a case where the claimant has been held in arbitration proceedings under the Workmen's Compensation Acts to be totally disabled as a result of pneumoconiosis, the Board may determine that the claimant is so disabled without referring that question to the Medical Board;

(*b*) in a case where the Board is of opinion that the determination of any other question disposes of the claim, they may, without referring the question whether the claimant is totally disabled as a result of pneumoconiosis to the Medical Board, make a decision that an award cannot be made on the claim.

(2) Where, in pursuance of a reference under the foregoing provisions of this Article, the Medical Board are satisfied, having examined the claimant, that he is totally disabled as a result of pneumoconiosis, they shall issue a certificate accordingly and such certificate signed by not less than two members thereof on behalf of the Medical Board shall be conclusive evidence of the matters therein certified.

(3) The Medical Board shall have power, in any case where they consider necessary, to make or cause to be made a radiographic examination of the lungs of the claimant, and to obtain the report of a radiologist on the case.

Finality of decisions of Board

15. Except as provided by Article 27, any decision given by the Board on a claim or question as provided by the foregoing Articles shall be final for the purposes of this Scheme.

PART IV

Claims and payments

Claims to be made to Board in writing

16. Every claim for an allowance shall be made in writing to the Board.

Information to be given when making a claim or obtaining payment of allowance

17. Every person who makes a claim for or is entitled to an allowance and every person to whom or on whose behalf sums are payable by way of an allowance shall furnish in such manner and at such times as the Board or the Minister, as the case may be, may determine such certificates, documents, information and evidence affecting the right to the allowance or to the receipt of any sums payable by way of any allowance as may reasonably be required by the Board or the Minister and, if so required, shall for that purpose attend at such office or place as the Board or the Minister may direct.

Obligations of claimants and of persons in receipt of allowances to undergo medical examination

18. The Board may by notice in writing require any claimant for and any person in receipt of an allowance to undergo medical or other examination not less than three clear days after the day on which such notice was sent, and any such person shall comply with every such requirement and shall attend at every such place and at every such time as may be required.

Sums not payable when delay in claiming

19. An allowance shall not be payable to any person in respect of any period more than six months before the claim for the allowance is made, except that in any particular case the Board may determine that the allowance shall be payable from such earlier date as they may consider reasonable in the circumstances, not being a date before the date from which, apart from this Article, the allowance would be payable.

Payment of allowances

20. Payment of allowances shall be made by the Minister, and accordingly the provisions of the Industrial Injuries Act and of the regulations made or deemed to be made thereunder specified in Schedule 2 hereto shall be applicable with the necessary modifications to claims for and payment of allowances as the same apply to industrial disablement benefit under that Act.

Obligation of beneficiaries to notify change of circumstances

21. Every beneficiary shall, as soon as may be practicable, notify the Minister in writing of any change of circumstances which he might reasonably be expected to know might effect the continuance of his right to any allowance or any part thereof awarded to him, or to the receipt of any such allowance or part, and the Minister shall thereupon notify the Board of any such change of circumstances.

Allowances to be inalienable

22. Subject to the following provisions of this Scheme, every assignment of, or charge on, an allowance and every agreement to assign or charge an allowance, shall be void, and on the bankruptcy of a beneficiary, the allowance shall not pass to any trustee or other person acting on behalf of his creditors.

Forfeiture of allowances

23. If a claimant or beneficiary

(*a*) fails without reasonable cause to comply with any requirement of Articles 17, 18 or 21, he shall, if the Board so decide, forfeit any allowance which would, apart from this paragraph, be payable in respect of periods of such failure ;

(*b*) wilfully obstructs, or is guilty of other misconduct in connection with any medical or any other examination which he is required under Article 18 to undergo, or with any proceedings under this Scheme for the determination of his right to an allowance or to the receipt thereof, he shall forfeit for such period as the Board shall determine any allowance which would, apart from this paragraph, be payable :

Provided that nothing in this Article providing for forfeiture of an allowance for failure to undergo medical or other examination or for obstruction or misconduct in connection with such examination shall authorise the disentitlement of the person concerned for a period exceeding six weeks on any forfeiture.

Suspension of payment of allowances

24. Where it appears to the Minister that a question has arisen whether the award of an allowance ought to be revised in accordance with Article 27, he may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if he does so he shall forthwith refer the question to the Board for determination in accordance with the provisions of that Article.

Allowances during imprisonment

25.—(1) Where a person has become entitled, in respect of a period, or any part of a period, during which he is and has continuously been undergoing imprisonment or detention in legal custody, to sums by way of allowance which, in the aggregate, either

(*a*) equal the total amount payable by way of an allowance for a period of one year ; or

(*b*) together with any sums payable by virtue of any scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954 in respect of such period of imprisonment or detention in legal custody amount to £100;

then that person shall be disqualified from receiving any further sums by way of allowance in respect of such period, or any part thereof.

(2) The provisions of Regulation 32 of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(a) (which regulation relates to the suspension of payment of benefit during periods of imprisonment or detention in legal custody) shall be applicable with the necessary modifications to the payment of an allowance as the same apply to benefit under the Industrial Injuries Act.

PART V

Claims in exceptional circumstances, review, overpayment, recovery

Claims in exceptional circumstances

26. Where a person first makes a claim for a lesser incapacity allowance at any time after the coming into operation of this Scheme, and it appears to the Board that, between the coming into operation of this Scheme and the date on which that claim was made, there has been such an exceptional change in the amount of that person's workmen's compensation or loss of earnings calculated in accordance with the foregoing provisions of this Scheme or in the nature of that person's employment that to make a decision in accordance with the said foregoing provisions would not in the opinion of the Board be reasonable, the Board may, notwithstanding anything in the foregoing provisions of this Scheme, determine any questions as to the amount of his workmen's compensation or loss of earnings having regard to such periods subsequent to the aforesaid exceptional change of circumstances as the Board may in their discretion consider appropriate.

Review of decisions of Board

27.—(1) The Board may at any time and from time to time review any decision given by them under this Scheme—

(*a*) if it appears to them that the decision was erroneous in view of new facts which have been brought to their notice since the date on which it was given or by reason of some mistake being made with respect to the facts or the law; or,

(*b*) if there has been any relevant change of circumstances since the decision was given; or

(*c*) if there has been such an exceptional change of circumstances as would enable a claim first made thereafter to be determined by the Board under the provisions of Article 26.

(2) Any question may be raised by the claimant or the Minister with a view to the review of any decision of the Board by means of an application made in writing to the Board and stating the grounds of the application.

(3) Where on review a decision of the Board is revised so as to make an allowance payable or to increase the rate of an allowance then, subject to the provisions of this Scheme relating to the time of payment of allowances, the allowance shall be payable accordingly from such date as the Board may consider reasonable in the circumstances.

(a) S.I. 1964/504 (1964 I, p. 833).

Requirement to repay wrongly paid allowances

28. Where on review a decision under this Scheme is revised, the decision given on review shall require repayment to the Industrial Injuries Fund of any sums paid by way of an allowance in pursuance of the original decision to the extent to which they would not have been payable if the decision on the review had been given in the first instance :

Provided that repayment of sums by way of an allowance in pursuance of the original decisions shall not be required under this Article in any case where it is shown to the satisfaction of the Board that in the obtaining and receipt of those sums the person concerned, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

Recovery of sums by deduction from allowances or benefits under the Industrial Injuries Act

29.—(1) Where any sums by way of an allowance are required to be repaid to the Industrial Injuries Fund under Article 28, such sums may, without prejudice to any other method of recovery, be deducted from any allowance or from any benefit under the Industrial Injuries Act or from any allowance payable by virtue of a scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954 then or thereafter payable to the person by whom they are to be repaid, or to any person entitled to receive such allowance or benefit on his death, and such deduction may be made at such rate as the Minister may determine.

(2) Where, in the case of any person, any sum may be recovered by deduction—

(*a*) by virtue of any provision of the Industrial Injuries Act from any payment under that Act, or

(*b*) by virtue of any provision of a scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954 from any payment under such scheme,

it may instead be recovered in whole or in part by deduction from any allowance then or thereafter payable to him, or to any person entitled to receive such allowance on his death.

Adjustment of allowances

30. Where, but for the provisions of Article 10(3), a person would be entitled, in respect of the same period, to two or more allowances under this Scheme and a scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954(**a**) at an aggregate weekly rate exceeding the corresponding disablement pension rate, the rate of the allowance, or if more than one, the largest allowance payable under this Scheme shall be reduced by such amount as is necessary to limit the said aggregate weekly rate to the corresponding disablement pension rate.

PART VI

Transitional provisions

Claims in respect of periods before commencement of Scheme

31. Any claim in respect of a period before the coming into operation of this Scheme for an allowance payable by virtue of any scheme made under the 1951 Act, may be made, and, when made, such claim and any question arising in connection therewith shall be determined by the Board, or where appropriate by an insurance officer appointed to exercise functions under

(**a**) 1951 c. 4; 1954 c. 16.

Part III of the Industrial Injuries Act, and any allowance in respect of such a period shall be awarded and paid in accordance with the provisions of any scheme under the 1951 Act which was in force during the said period.

Conditions for allowance satisfied by previous awards

32. Any allowance under this Scheme may be paid without any claim or award or awarded without any claim, if, in the opinion of the Minister or, as the case may be, the Board, evidence of the satisfaction of the conditions for that allowance is afforded by the award, in respect of a period before the coming into operation of this Scheme, of an allowance payable by virtue of a scheme made under the 1951 Act or of an allowance under the Workmen's Compensation and Benefit (Supplementation) Act 1956.

Preservation of entitlement to larger amount of allowances

33. Any beneficiary, not being a person entitled to an allowance payable by virtue of any scheme made under the Industrial Diseases (Benefit) Acts 1951 and 1954, who is entitled under the provisions of section 3(2) or (3) of the 1965 Act to payment of a greater amount or aggregate amount than he is entitled to receive by way of allowances under this Scheme shall, so long as he is so entitled, be paid by way of increase to the allowance or, if more than one the largest allowance to which he is entitled under this Scheme, such a sum as will, in addition to the allowance or allowances payable to him by virtue of this Scheme, ensure that the total amount or aggregate amount payable to him is the amount to which he is entitled by virtue of the said section 3(2) or (3).

Transitional provisions as to review

34.—(1) The Board may at any time and from time to time review any decision given by a Board under any scheme made under the 1951 Act in force immediately before the coming into operation of this Scheme as if it had been a decision given by them under this Scheme:

Provided that in respect of any period falling before the coming into operation of this Scheme, taken into account on such review, the questions shall be determined and, if appropriate, the decision revised and allowance awarded or paid in accordance with the provisions of the scheme in force during such period.

(2) On any such review as is mentioned in paragraph (1) of this Article a decision, given by an insurance officer appointed to exercise functions under Part III of the Industrial Injuries Act, on any question referred to him for determination under any such scheme may be reviewed by such an insurance officer in accordance with the provisions of that scheme.

Transitional provisions relating to the Board

35. The appointment by the Minister of the Chairman, deputy Chairman and other members of, and the Secretary to, the Board established for the administration of the schemes revoked by this Scheme, having effect immediately before the coming into operation of this Scheme, shall continue to have effect as if made under this Scheme and as if such appointment had been made to the Board established for the administration of this Scheme.

PART VII

Miscellaneous

Contracting-out schemes

36. In relation to a person whose workmen's compensation is or was compensation under a contracting-out scheme, Section 2(5) of the 1951 Act

(which relates to the amount of a person's workmen's compensation) and Articles 2, 4, 5 and 6 shall apply subject to the modification that, where by reason of the nature of the provisions of the contracting-out scheme—

(*a*) there is in the opinion of the Board difficulty in distinguishing the amount to which that person is or was entitled by way of workmen's compensation under that scheme from other payments to him; or

(*b*) the said amount is or was reduced in consequence of other payments to him;

the amount of his workmen's compensation shall be taken to be such an amount as the Board may think reasonable in his case, having regard to the provisions of the contracting-out scheme and to the amount of the weekly payment by way of workmen's compensation which would, but for the contracting-out scheme, have been payable to him in respect of the relevant injury or disease.

Exemption from stamp duty

37. Stamp duty shall not be chargeable upon such documents used in connection with business under this Scheme as are specified in Schedule 3 hereto.

Reciprocal arrangements with Northern Ireland.

38. If in pursuance of Section 5(1) of the 1951 Act (which relates to reciprocal arrangements with Northern Ireland) the Minister makes reciprocal arrangements for payments under any corresponding legislation of Northern Ireland to be made out of the Industrial Injuries Fund, the provisions of this Scheme shall apply in relation to such payments as if they were payments under this Scheme.

Breach of requirements of Scheme

39. If any person contravenes or fails to comply with any requirement of Articles 17 or 21 he shall for such offence be liable on summary conviction to a penalty not exceeding £10.

Revocation of earlier schemes

40. The schemes specified in Schedule 4 hereto are, subject to the transitional provisions contained in Part VI of this Scheme, hereby revoked; and nothing in the said Part VI shall be taken as restricting the general application of Section 38 of the Interpretation Act 1889, as applied by Article 1(7) of this Scheme, with regard to the effect of these revocations.

Margaret Herbison,
Minister of Pensions and National Insurance.

16th February 1966.

We consent

John Silkin,
George Lawson,
Two of the Lords Commissioners of Her Majesty's Treasury.

17th February 1966.

SCHEDULE 1

Article 5

Loss of earnings	*Rate of lesser incapacity allowance*
s. d.	s. d.
9 11	2 6
19 11	5 0
34 11	7 6
49 11	10 0
64 11	15 0
79 11	20 0
94 11	25 0
109 11	32 6
124 11	40 0
125 0	47 6

SCHEDULE 2

Article 20

Provisions of the Industrial Injuries Act and of regulations made thereunder applicable (with the necessary modifications) to claims for and payment of allowances

Provisions of the Industrial Injuries Act and of regulations made thereunder	Subject matter
Section 27(4)	Fractions of a penny to be disregarded.
The National Insurance (Industrial Injuries) (Claims and Payments) Regulations 1964(a)	
Regulation 15	Time and manner of payment of benefit.
Regulation 20	Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time.
Regulation 24	Persons unable to act.
Regulation 25	Payment on death.

SCHEDULE 3

Article 37

Documents exempt from stamp duty

1. Draft or order or receipt given in respect of an allowance.

2. Appointment or revocation of an appointment of an agent and any other documents authorised by or in pursuance of this Scheme or otherwise required in order to give effect to the provisions of this Scheme.

(a) S.I. 1964/73 (1964 I, p. 115).

Article 40

SCHEDULE 4

SCHEMES REVOKED

Citation	References
The Workmen's Compensation (Supplementation) Scheme 1951.	S.I.1951/1150 (1951 II, p. 1401).
The Workmen's Compensation (Supplementation) Amendment Scheme 1962.	S.I.1962/283 (1962 I, p. 269).
The Workmen's Compensation (Supplementation) Amendment Scheme 1963.	S.I.1963/582 (1963 I, p. 674).
The Workmen's Compensation (Supplementation) Amendment Scheme 1965.	S.I.1965/74 (1965 I, p. 116).

EXPLANATORY NOTE

(*This Note is not part of the Scheme.*)

This Scheme revokes and replaces with extensions and amendments the Workmen's Compensation (Supplementation) Scheme 1951 and subsequent amending schemes.

The Scheme improves and extends allowances payable out of the Industrial Injuries Fund in respect of injury or disease arising out of employment before 5th July 1948. It applies to all persons covered by the revoked schemes and to those formerly entitled to allowances for total incapacity or disablement (as a result, wholly or partly, of some compensable injury or disease) provided by the Workmen's Compensation and Benefit (Supplementation) Act 1956 (which is repealed by the 1965 Act). It also provides allowances, at rates dependent on loss of earnings, to all partially incapacitated men in receipt of weekly payments of workmen's compensation other than notional payments. To determine the rate of these allowances the scheme provides for earnings to be calculated on a basis similar to that established for the purposes of the Industrial Injuries Act, without regard to the rules for making such calculations under the Workmen's Compensation Acts.

The Scheme provides for administration by a Board appointed by the Minister and contains detailed provisions relating to claims and payments and other incidental matters based on the corresponding provisions of the Industrial Injuries Act. It also contains transitional provisions.