AN BILLE LEASA SHOISIALAIGH (DIOBHALACHA CEIRDE), 1965

SOCIAL WELFARE (OCCUPATIONAL INJURIES) BILL, 1965

Mar a ritheadh ag dhá Theach an Oireachtais

As passed by both Houses of the Oireachtas

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AN BILLE LEASA SHOISIALAIGH (DIOBHALACHA CEIRDE), 1965

SOCIAL WELFARE (OCCUPATIONAL INJURIES) BILL, 1965

BILL

entitled

AN ACT TO EXTEND THE SYSTEM OF SOCIAL INSURANCE ESTABLISHED BY THE SOCIAL WELFARE ACT, 1952, SO AS TO APPLY IN RELATION TO OCCUPATIONAL INJURIES AND DISEASES, TO REPEAL THE WORKMEN'S COMPENSATION ACTS, 1934 TO 1955, AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Interpretation.

1.—(1) In this Act, save where the context otherwise requires—

" the Acts " means the Social Welfare Acts, 1952 to 1966;

" apprentice " means a person undergoing full-time training for any trade, business, profession, office, employment or vocation;

" approved hospital treatment " has the meaning specified in *subsection (2) of section 33;*

" child qualified for the purposes of this Act " means a person who—

(*a*) is under the age of eighteen,

(*b*) is ordinarily resident in the State,

(*c*) is not detained in a reformatory or an industrial school, and

(*d*) if not under the age of sixteen—

(i) is undergoing full-time instruction in a day school,

(ii) is an apprentice either not remunerated or at a rate of remuneration not exceeding fifty shillings per week, or

(iii) is, by reason of physical or mental infirmity, incapable of engaging in any remunerative occupation and likely to remain so incapable for a prolonged period;

" claimant " means a person claiming occupational injuries benefit, and also includes an applicant for a declaration that an accident was or was not an occupational accident, and reference to a claim shall be construed accordingly;

" the deceased " means, in relation to death benefit, the person in respect of whose death the benefit is claimed or payable;

" disablement gratuity " has the meaning specified in *subsection* (*7*) of *section 9;*

" disablement pension " has the meaning specified in *subsection* (*8*) or *subsection* (*9*) of *section 9;*

" injury benefit period " means, in relation to any accident, the period of one hundred and fifty-six days (Sundays being disregarded) beginning with the day of the accident, or the part of that period for which, under *subsection* (*2*) of *section 9* of this Act, disablement benefit in respect of the accident is not available to the insured person;

" insurable (occupational injuries) employment " has the meaning specified in *section 3;*

" medical examination " includes bacteriological and radiographical tests and similar investigations, and references to being medically examined shall be construed accordingly;

" medical treatment " has the meaning specified in *subsection* (*1*) of *section 33;*

" occupational accident " has the meaning specified in *section 29;*

" occupational injuries insurance " has the meaning specified in *subsection* (*2*) of *section 2;*

" orphan qualified for the purposes of this Act " means—

(*a*) a child qualified for the purposes of this Act, being a legitimate child, both of whose parents are dead and who, where he has a stepparent, does not normally reside with the stepparent or a person married to and living with the stepparent, or

(*b*) a child qualified for the purposes of this Act, being an illegitimate child, whose mother is dead and whose father is dead or unknown and who, if there is a surviving husband of his mother, does not normally reside with that husband or a woman married to and living with that husband;

1952, No. 11. " the Principal Act " means the Social Welfare Act, 1952;

" relevant accident " and " relevant injury " mean respectively, in relation to any benefit, the accident and injury in respect of which the benefit is claimed or payable; and " relevant loss of faculty " means the loss of faculty resulting from the relevant injury;

" unemployability supplement " has the meaning specified in *subsection* (*3*) of *section 12;*

" the Workmen's Compensation Acts " means the Workmen's Compensation Acts, 1934 to 1955, or the enactments repealed by the Workmen's Compensation Act, 1934, or the enactments repealed by the Workmen's Compensation Act, 1906.

1934, No. 9.
1906, c.58.

(2) References in this Act to loss of physical faculty shall be construed as including references to disfigurement, whether or not accompanied by any actual loss of faculty.

(3) References in this Act to any enactment shall, save where the context otherwise requires, be construed as references to that Act as amended by any subsequent enactment including this Act.

(4) In this Act " the appointed day " means such day as the Minister may by order appoint and different days may be appointed for different purposes of this Act or for the same purpose in relation to different cases or classes of case.

(5) Any question relating to the normal residence of a child qualified for the purposes of this Act shall, for the purposes of this Act, be decided in accordance with subsection (2) of section 5 of the Children's Allowances (Amendment) Act, 1946, and the rules under that subsection. 1946, No. 8.

(6) Where a child qualified for the purposes of this Act has been or becomes adopted pursuant to the Adoption Acts, 1952 and 1964, then for the purposes of this Act—

(*a*) the child shall be treated as if he were the child of the adopter or adopters born to him, her or them in lawful wedlock and were not the child of any other person and, if he was an orphan qualified for the purposes of this Act immediately before the adoption, as having ceased to be such an orphan, and

(*b*) if there is one adopter only, in any application after the adoption with respect to the child of the definition of "orphan qualified for the purposes of this Act" contained in *subsection (1)* of this section, "the parent of whom is dead" shall be substituted in *paragraph (a)* of that definition for "both of whose parents are dead".

(7) Section 3 (other than subsection (4) thereof) of the Principal Act shall be construed and have effect as if—

(*a*) references therein to a power to make regulations included references to any power to make regulations under this Act, and

(*b*) references therein to regulations included references to any regulations under this Act.

(8) (*a*) The definition of "increase" contained in subsection (1) of section 2 of the Principal Act is hereby amended by the insertion after "or section 27" of "of this Act or under *section 10*, *section 11*, *section 12*, *section 13*, *section 14* or *section 19* of the *Social Welfare (Occupational Injuries) Act, 1966*".

(*b*) Subsection (2) of section 31 of the Principal Act is hereby amended by the insertion after "such person," of "or an increase under *section 10* of the *Social Welfare (Occupational Injuries) Act, 1966*, in respect of such husband or wife,".

Occupational injuries insurance.

2.—(1) Subject to the provisions of the Acts, every person, irrespective of age, who, on or after the appointed day, is employed in insurable (occupational injuries) employment shall be insured under the Acts against personal injury caused on or after the appointed day by accident arising out of and in the course of such employment.

(2) Any reference in this Act to occupational injuries insurance shall be construed as a reference to the insurance provided for by this section.

(3) An allowance or gratuity shall not be granted under section 1 of the Superannuation Act, 1887, in a case in which the injury was sustained by a person having occupational injuries insurance. 1887, c. 67.

Insurable (occupational injuries) employment.

3.—(1) Any reference in this Act to insurable (occupational injuries) employment shall, subject to the subsequent subsections of this section, be construed as a reference to any employment for

the time being specified in Part I of the First Schedule to the Principal Act, not being an employment specified in Part II of that Schedule.

(2) (*a*) For the purposes of this section, the following employments shall be taken as being added to the employments specified in Part I of the First Schedule to the Principal Act:

(i) employment in the State in plying for hire with any vehicle, vessel, aircraft, machine or animal, the use of which is obtained under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise,

(ii) employment under any contract of service or apprenticeship entered into in the State (otherwise than as captain, master or a member of the crew) on board a ship or aircraft, being employment for the purpose of the ship or aircraft or of any passengers or cargo or mails carried by the ship or aircraft,

(iii) employment in the State as a member or as a person training to become a member of any such fire brigade, rescue brigade, first-aid party or salvage party at a factory, mine or works, as may be prescribed, or of any such similar organisation as may be prescribed.

(*b*) In *subparagraph* (*ii*) of the foregoing paragraph—

" ship " means—

(i) any ship registered in the State, or

(ii) any other ship or vessel of which the owner, or, if there is more than one owner, the managing owner or manager, resides or has his principal place of business in the State;

" aircraft " means—

(i) any aircraft registered in the State, or

(ii) any other aircraft of which the owner, or, if there is more than one owner, the managing owner or manager, resides or has his principal place of business in the State.

(3) For the purposes of this section, the following employments shall be taken as being added to the employments specified in Part II of the First Schedule to the Principal Act:

(*a*) employment as a member of the Defence Forces,

(*b*) employment, which is neither wholetime as may be defined in regulations nor under contract of service, as a member of the crew of a fishing vessel where the employed person is wholly remunerated by a share in the profits or the gross earnings of the working of the vessel,

(*c*) employment, otherwise than under contract of service or apprenticeship, as an outworker,

(*d*) employment under any local or other public authority in the execution of any contract for services.

(4) For the purposes of this section, paragraph 3 of Part II of the First Schedule to the Principal Act shall be taken as not including employment of a casual nature for the purposes of any work in or about the residence of the employer.

(5) For the purposes of this section, paragraphs 7, 9 and 10 of Part II of the First Schedule to the Principal Act (being paragraphs added to that Part by the Social Welfare (Insurance Inclusions and Exclusions) Regulations, 1952) shall be taken as not including employment under any contract of service or apprenticeship. S.I. No. 373 of 1952.

(6) For the purposes of this section, a pilot to whom the Pilotage Act, 1913, applies, shall, when employed on any ship (as defined in *paragraph* (*b*) of *subsection* (*2*) of this section), be deemed to be a member of the crew of that ship. 1913, sess. 1, c. 31.

(7) The Minister may, in relation to paragraphs 5 and 6 of Part II of the First Schedule to the Principal Act, by regulations provide that an employment specified as being subsidiary employment or an employment specified as being of inconsiderable extent shall be taken for the purposes of this section as not being so specified.

(8) The Minister may by regulations, which shall be subject to the sanction of the Minister for Finance, provide that any specified employment under any local or other public authority shall be taken for the purposes of this section as being added to Part II of the First Schedule to the Principal Act.

(9) Where it appears to the Minister—

(*a*) that the nature or other circumstances of the service rendered or the work performed in any employment which, apart from this subsection, is insurable (occupational injuries) employment and in any employment which, apart from this subsection, is not such employment (whether by reason of the fact that it is an excepted employment or otherwise) are so similar as to result in anomalies in the operation of the Acts, and

(*b*) that either—

(i) the first-mentioned employment can conveniently be included among the excepted employments, or

(ii) the second-mentioned employment can conveniently be included among the insurable (occupational injuries) employments,

the Minister may by regulations, which shall be subject to the sanction of the Minister for Finance, provide that the employment shall be so included.

(10) The Minister may by regulations, which shall be subject to the sanction of the Minister for Finance, modify the provisions of the Acts in their application in the case of persons employed in employments specified in *subparagraph* (*ii*) of *paragraph* (*a*) of *subsection* (*2*) of this section.

Extension of meaning of references to arising out of and in the course of employment.

4.—(1) An accident arising in the course of an insured person's employment shall be deemed for the purposes of the Acts, in the absence of evidence to the contrary, also to have arisen out of that employment.

(2) An accident shall be treated for the purposes of the Acts, where it would not apart from this section be so treated, as arising out of an insured person's employment if—

(*a*) the accident arises in the course of the employment,

(*b*) the accident either—

(i) is caused by another person's misconduct, skylarking or negligence, or by steps taken in consequence of any such misconduct, skylarking or negligence or by the behaviour or presence of an animal (including a bird, fish or insect), or

(ii) is caused by or consists in the insured person's being struck by any object or by lightning, and

(*c*) the insured person did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.

(3) An accident shall be deemed for the purposes of the Acts to arise out of and in the course of an insured person's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if—

(*a*) the accident would have been deemed for the purposes of the Acts so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be, and

(*b*) the act is done for the purposes of and in connection with the employer's trade or business.

(4) An accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed for the purposes of the Acts to arise out of and in the course of his employment, if—

(*a*) the accident would have been deemed for those purposes so to have arisen had he been under such an obligation, and

(*b*) at the time of the accident, the vehicle—

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer, and

(ii) is not being operated in the ordinary course of a public transport service.

In this subsection references to a vehicle include references to a ship, vessel or aircraft.

(5) An accident happening to an insured person in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed for the purposes of the Acts to arise out of and in the course of his employment if it happens while he is taking steps, in an actual or supposed emergency at those premises, to rescue, succour or

protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(6) An accident happening to an insured person, who is an apprentice, while he is in attendance at a technical school or other place for training or instruction (whether during ordinary hours of employment or otherwise), shall be deemed for the purposes of the Acts, in the absence of evidence to the contrary, to have arisen out of and in the course of his employment if his attendance at that school or place is with his employer's consent or is required by direction of his employer or under his contract of apprenticeship.

Accidents in course of illegal employment, etc.

5.—(1) Where a claim for occupational injuries benefit is made under the Acts in respect of any accident or of any disease or injury prescribed for the purposes of *section 23* of this Act, or an application is made thereunder for a declaration that any accident was an occupational accident or for a corresponding declaration as to any such disease or injury, the Minister may direct that for the purposes of the Acts the relevant employment shall, in relation to that accident, disease or injury, be treated as having been insurable (occupational injuries) employment, notwithstanding that, by reason of a contravention of or noncompliance with some provision contained in or having effect under any enactment passed for the protection of employed persons or of any class of employed persons, the contract purporting to govern the employment was void or the employed person was not lawfully employed therein at the time when or in the place where the accident happened or the disease or injury was contracted or received.

(2) In *subsection* (*1*) of this section "relevant employment" means, in relation to an accident, the employment out of and in the course of which the accident arises and, in relation to a disease or injury, the employment to the nature of which the disease or injury is due.

Accidents outside the State.

6.—Except where regulations otherwise provide, occupational injuries benefit shall not be payable in respect of an accident happening while the insured person is outside the State.

Occupational injuries benefit

7.—Section 14 of the Principal Act is hereby amended by the addition at the end of subsection (1) thereof of the following paragraph:

"(*h*) occupational injuries benefit, which shall comprise injury benefit, disablement benefit and death benefit.".

Injury benefit.

8.—(1) Subject to the provisions of the Acts, an insured person who suffers personal injury caused on or after the appointed day by accident arising out of and in the course of his employment, being insurable (occupational injuries) employment, shall be entitled to injury benefit in respect of any day on which, as the result of the injury, he is incapable of work during the injury benefit period:

Provided that, subject to *paragraph* (*b*) of *subsection* (*1*) of *section 15* of this Act, an insured person shall not be entitled to injury benefit in respect of the first three such days unless, as the result of the injury, he is incapable of work during the said period on not less than twelve days.

(2) In determining whether the insured person is incapable of work on the day of the accident, any part of that day before the happening of the accident shall be disregarded.

(3) Injury benefit shall be an allowance payable at a weekly rate of—

(*a*) in case the beneficiary is—

(I) under the age of eighteen years, or

(II) being over the age of eighteen years, a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband,

and is not entitled to an increase of benefit in respect of a child qualified for the purposes of this Act or children so qualified or for an adult dependant—seventy-seven shillings and sixpence, and

(*b*) in any other case—one hundred and fifteen shillings.

(4) The amount payable by way of injury benefit for any day of incapacity shall be one-sixth of the appropriate weekly rate.

(5) A person under the age of sixteen years shall not be entitled to injury benefit except in so far as may be provided by regulations.

Disablement benefit.

9.—(1) Subject to the provisions of the Acts, an insured person who suffers personal injury caused on or after the appointed day by accident arising out of and in the course of his employment, being insurable (occupational injuries) employment, shall be entitled to disablement benefit if he suffers as a result of the accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with the following provisions of this section amounts to not less than one per cent.; and for the purposes of those provisions there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to one per cent.

(2) Disablement benefit shall not be available to an insured person until after the third day of the period of one hundred and fifty-six days (Sundays being disregarded) beginning with the day of the relevant accident nor until after the last day, if any, of that period on which he is incapable of work as the result of the relevant accident:

Provided that if he is not so incapable on any day, being the fourth or a later day after the relevant accident, before the end of that period, he may claim, and if otherwise entitled, be awarded disablement benefit as from that day, but in that event the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

(3) For the purposes of this section, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles:

(*a*) save as hereafter provided in this subsection, the disabilities to be taken into account shall be all disabilities (whether or not involving a loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;

(*b*) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to the provisions of any regulations made under the next subsection, it shall not be so treated in so far as the claimant either—

(i) would in any case have been subject thereto as the result of a congenital defect or of an injury or disease received or contracted before the relevant accident, or

(ii) would not have been subject thereto but for some injury or disease received or contracted after, and not directly attributable to, that accident;

(*c*) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex and physical and mental condition;

(*d*) the disabilities resulting from such loss of faculty as may be prescribed shall be taken as amounting to one hundred per cent. disablement and other disabilities shall be assessed accordingly.

(4) Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed, and such regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement; and, in connection with any such direction, nothing in *paragraph* (*c*) of the last foregoing subsection shall be taken as preventing the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.

(5) The period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty:

Provided that, if on any assessment the condition of the claimant is not such, having regard to the possibility of changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the said period—

(*a*) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his condition and the possibility aforesaid, and

(*b*) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

(6) An assessment shall state the degree of disablement in the form of a percentage and shall specify the period taken into account thereby and, where that is limited by reference to a definite date, whether the assessment is provisional or final:

Provided that—

(*a*) the said percentage and period shall not be specified more particularly than is necessary for the purpose of determining in accordance with this section the claimant's rights as to disablement benefit, and

(*b*) a percentage between twenty and one hundred which is not a multiple of ten shall be treated—

(i) if it is a multiple of five, as being the next higher percentage which is a multiple of ten, and

(ii) if it is not a multiple of five, as being the nearest percentage which is a multiple of ten.

(7) Where the extent of the disablement is assessed for the period taken into account as amounting to less than twenty per cent., disablement benefit shall be a gratuity (in this Act referred to as a disablement gratuity)—

(*a*) of an amount fixed, in accordance with the length of the said period and the degree of disablement, by a pre-

scribed scale, but not in any case exceeding three hundred and eighty pounds, and

(*b*) payable, if and in such cases as regulations so provide, by instalments.

The scale prescribed for the purposes of this subsection shall be the same for all persons, except that a lower amount may be fixed thereby for cases where, at the beginning of the period taken into account by the assessment, the beneficiary is under the age of eighteen years, and may be made to depend on the date on which the beneficiary will attain that age, or the beneficiary, being over the age of eighteen years, is a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband:

Provided that—

(i) the said lower amount shall not in any case be less than two-thirds the amount to which the beneficiary would otherwise be entitled, and

(ii) in the case of either class of beneficiary as aforesaid, the higher rate shall be payable if the beneficiary would, if he or she were in receipt of injury benefit rather than disablement gratuity, be entitled to an increase of that benefit for a child qualified for the purposes of this Act or children so qualified or for an adult dependant.

(8) Where the extent of the disablement is assessed for the period taken into account as amounting to twenty per cent. or more, disablement benefit shall be a pension (in this Act referred to as a disablement pension) for that period at the weekly rate appropriate in accordance with Table I annexed to this subsection:

Provided that—

(*a*) where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date, and

(*b*) where the beneficiary is under the age of eighteen years or, being over that age, is a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband, the weekly rate for any degree of disablement shall be at the weekly rate appropriate in accordance with Table II annexed to this subsection unless the beneficiary would, if in receipt of injury benefit rather than disablement pension, be entitled to an increase of that benefit for a child qualified for the purposes of this Act or children so qualified or for an adult dependant.

TABLE I.

Degree of disablement	*Weekly rate*
100 per cent.	115s. 0d.
90 „ „	103s. 6d.
80 „ „	92s. 0d.
70 „ „	80s. 6d.
60 „ „	69s. 0d.
50 „ „	57s. 6d.
40 „ „	46s. 0d.
30 „ „	34s. 6d.
20 „ „	23s. 0d.

TABLE II.

Degree of disablement	*Weekly rate*
100 per cent.	77s. 6d.
90 „ „	69s. 9d.
80 „ „	62s. 0d.
70 „ „	54s. 3d.
60 „ „	46s. 6d.
50 „ „	38s. 9d.
40 „ „	31s. 0d.
30 „ „	23s. 3d.
20 „ „	15s. 6d.

(9) (*a*) Where, apart from this subsection, a gratuity would fall to be paid under *subsection* (*7*) of this section in a case in which the period taken into account by the assessment of disablement is the period of the claimant's life or a period exceeding seven years, the following provisions shall have effect if the claimant opts, before the gratuity is paid, for the substitution of a pension for the gratuity:

(i) the gratuity shall not be paid,

(ii) disablement benefit shall be a pension (in this Act also referred to as a disablement pension) at the weekly rate appropriate in accordance with a prescribed scale,

(iii) the disablement pension shall be for the period taken into account by the assessment of disablement subject to the proviso that, where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

(*b*) The following provisions shall apply with respect to the scale prescribed for the purposes of this subsection:

(i) the scale shall be the same for all persons, except that a lower amount may be fixed thereby for cases where the beneficiary is under the age of eighteen years or, being over that age, is a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband unless the beneficiary would, if in receipt of injury benefit rather than disablement pension, be entitled to an increase of that benefit for a child qualified for the purposes of this Act or children so qualified or for an adult dependant,

(ii) different amounts may be specified in relation to the different percentages under twenty per cent., but, as respects each such amount, it shall be not less than the amount which bears to the disablement pension appropriate to a degree of disablement of twenty per cent. (that is to say, 23s. 0d. or 15s. 6d., as may be appropriate) the same proportion as the percentage with respect to which it is specified bears to twenty per cent.

(10) Notwithstanding subsection (1) of section 44 of the Principal Act, an appeal shall not lie against a provisional assessment of the extent of disablement before the expiration of two years from the date of the first assessment of the extent of disablement in the case, nor where the period taken into account by the assessment falls wholly within those two years.

Increase of injury benefit and disablement pension for adult dependants.

10.—(1) The weekly rate of injury benefit shall be increased by forty shillings for any period during which—

(*a*) the beneficiary is living with or wholly or mainly maintaining his wife, or

(*b*) the beneficiary is wholly or mainly maintaining her husband who is incapable of self-support by reason of some physical or mental infirmity, or

(*c*) the beneficiary, being a single man or a widower, is maintaining wholly or mainly a female person over the age of sixteen years having the care of one or more than one child qualified for the purposes of this Act who normally resides or reside with him,

subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of injury benefit under this section in respect of more than one person specified in *paragraph* (*c*) of this subsection.

(2) *Subsection* (*1*) of this section shall, for any period for which the beneficiary either is entitled to an unemployability supplement or is receiving approved hospital treatment, apply to a disablement pension as it applies to injury benefit.

Increase of injury benefit and disablement pension for child or children qualified for purposes of this Act.

11.—(1) The weekly rate of injury benefit shall be increased by thirteen shillings in respect of a child qualified for the purposes of this Act or each of two children so qualified who normally resides or reside with the beneficiary and, in addition, where there are more than two such children, by eight shillings in respect of each such child in excess of two.

(2) *Subsection* (*1*) of this section shall, for any period for which the beneficiary either is entitled to an unemployability supplement or is receiving approved hospital treatment, apply to a disablement pension as it applies to injury benefit.

Increase of disablement pension on account of unemployability.

12.—(1) The weekly rate of a disablement pension shall be increased—

(*a*) in case the beneficiary is—

(i) under the age of eighteen years, or

(ii) being over the age of eighteen years, a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband,

and is not entitled to an increase of the pension for a child qualified for the purposes of this Act or children so qualified or for an adult dependant—by forty shillings, and

(*b*) in any other case—by fifty-two shillings and sixpence,

if, as a result of the relevant loss of faculty, the beneficiary is incapable of work and likely to remain permanently so incapable.

(2) (*a*) For the purposes of this section, a person may be treated as being incapable of work and likely to remain permanently incapable of work, notwithstanding that the loss of faculty is not such as to prevent him being capable of work, if it is likely to restrict him to earning not more than one hundred and four pounds in a year.

(*b*) In the foregoing paragraph the reference to earning includes a reference to receiving any remuneration or profit derived from gainful occupation.

(3) An increase of pension under this section (in this Act referred to as an unemployability supplement) shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

13.—(1) Where a disablement pension is payable in respect of an assessment of one hundred per cent., then, if as a result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by an amount determined in accordance with regulations by reference to the extent and nature of the attendance required by the beneficiary, subject to the limitation that such amount shall not exceed forty shillings, except in cases of exceptionally severe disablement, or eighty shillings in any case.

Increase of disablement pension where constant attendance needed.

(2) An increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time:

Provided that no such increase shall be payable in respect of any period during which the beneficiary is receiving medical treatment as an in-patient in a hospital or similar institution.

14.—Where a person is awarded disablement benefit, but the extent of his disablement is assessed for the period taken into account by the assessment at less than one hundred per cent., it shall be treated as assessed at one hundred per cent. for any part of that period during which he receives approved hospital treatment (whether before or after the making of the assessment or the award of the benefit):

Increase of disablement benefit during approved hospital treatment.

Provided that, where the extent of the disablement is so assessed at less than twenty per cent., this section shall not affect the operation of the provisions relating to disablement gratuities, but, in the case of a disablement pension payable by virtue of this section to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase provided for by this Act) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

15.—(1) Where a person suffers two or more successive accidents against which he is insured by occupational injuries insurance—

Adjustments for successive accidents.

(*a*) the person shall not for the same period be entitled (apart from any increase of benefit such as is mentioned in the next subsection) to receive benefit, either by way of injury benefit and any disablement pension or pensions or by way of two or more disablement pensions, at an aggregate weekly rate exceeding—

(i) in case the person is—

(I) under the age of eighteen years, or

(II) being over the age of eighteen years, a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband,

and, if injury benefit is payable, is not entitled to an increase of benefit in respect of a child qualified for the purposes of this Act or children so qualified or for an adult dependant or, if disablement pensions are payable, would not be so entitled if injury benefit rather than disablement pensions were payable—seventy-seven shillings and sixpence, and

(ii) in any other case—one hundred and fifteen shillings,

(*b*) the provision of this Act excluding the right to injury benefit for the first three days of incapacity resulting from the relevant accident unless there are twelve such days during the injury benefit period shall, in relation to two or more accidents happening at intervals not greater than thirteen weeks as the result of each of

which the person is incapable of work on some day during its injury benefit period, apply so as to permit of there being taken into account, for the purpose of making up the said twelve days in the case of each of those accidents, any days which may be so taken into account in the case of any other of them,

(*c*) regulations may provide for adjusting—

(i) injury benefit or disablement benefit, or the conditions for the receipt thereof, in any case where the person has received or may be entitled to a disablement gratuity,

(ii) any increase of benefit such as is mentioned in the next subsection, or the conditions for the receipt thereof.

(2) The increases of benefit referred to in the foregoing subsection are increases in the rate of injury benefit or of disablement pension under *sections 10, 11, 12* and *13* of this Act.

Entitlement to death benefit.

16.—Subject to the provisions of the Acts, where an insured person dies as a result of personal injury caused on or after the appointed day by accident arising out of and in the course of his employment, being insurable (occupational injuries) employment, death benefit shall be payable as provided for in the next following six sections.

Death benefit—widows.

17.—(1) The widow of the deceased shall be entitled to death benefit if at his death she either was living with him or was being, or would but for the relevant accident have been, wholly or mainly maintained by him.

(2) In the case of a widow, death benefit shall be a pension at the weekly rate of ninety-five shillings.

(3) A pension under this section shall not be payable for any period after the remarriage of the widow.

(4) A widow shall be disqualified for receiving a pension under this section if and so long as she and any person are cohabiting as man and wife.

Death benefit—widowers.

18.—(1) The widower of the deceased shall be entitled to death benefit if at her death he was being wholly or mainly maintained by her or would, but for the relevant accident, have been so maintained.

(2) In the case of a widower who was, at the death of the deceased, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable, death benefit shall be a pension at the weekly rate of ninety-five shillings.

(3) In the case of any other widower, death benefit shall be a gratuity of two hundred and forty-seven pounds.

(4) A pension under this section shall not be payable for any period after the person to whom it is payable ceases to be incapable of self-support by reason of some physical or mental infirmity.

Death benefit—increase of pension of widow or widower for child or children qualified for purposes of this Act.

19.—The weekly rate of a pension under *section 17* or *section 18* of this Act shall be increased by thirteen shillings in respect of a child qualified for the purposes of this Act or each of two children so qualified who normally resides or reside with the beneficiary and who—

(*a*) normally resided with the beneficiary or the deceased immediately before the death of the deceased, or

(*b*) being a child, grand-child or step-child, or children, grand-children or step-children, of the deceased or of the beneficiary, became normally resident with the beneficiary subsequent to the death of the deceased, or

(*c*) was or were adopted by the beneficiary pursuant to the provisions of the Adoption Acts, 1952 and 1964, subsequent to the death of the deceased,

and, in addition, where there are more than two such children, by eight shillings in respect of each such child in excess of two.

Death benefit—parents.

20.—(1) A parent of the deceased shall be entitled to death benefit if, at the deceased's death, he or she was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained.

(2) In the case of a parent, the deceased having been at death a married person, death benefit shall be a pension at the weekly rate of twenty-four shillings.

(3) In the case of a parent, the deceased having been at death a widower or widow or an unmarried person, death benefit shall be—

(*a*) where the parent is the father—a pension at the weekly rate of ninety-five shillings in case he was, at the death of the deceased, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable and at the weekly rate of twenty-four shillings in any other case,

(*b*) where the parent is the mother, having been, at the death of the deceased, a widow or having thereafter become a widow—a pension at the weekly rate of ninety-five shillings,

(*c*) where the parent is the mother, not being a widow—a pension at the weekly rate of twenty-four shillings in case a pension at the weekly rate of ninety-five shillings under *paragraph* (*a*) of this subsection is payable to her husband and at the weekly rate of ninety-five shillings in any other case.

(4) Where a person to whom a pension at the weekly rate of ninety-five shillings under *paragraph* (*a*) of the foregoing subsection is payable ceases at any time to be incapable of self-support by reason of some physical or mental infirmity, the pension shall thereafter be payable at the weekly rate of twenty-four shillings and, if at that time a pension at the weekly rate of twenty-four shillings under *paragraph* (*c*) of that subsection is payable to his wife, that pension shall thereafter be payable at the weekly rate of ninety-five shillings.

(5) Where a parent was partly maintained by each of two or more insured persons who have died as a result of accidents arising out of and in the course of their employments, being insurable (occupational injuries) employments, the parent may be treated for the purposes of this section as having received from the last of those insured persons to die contributions to his or her maintenance equal to the aggregate amount which those insured persons were together contributing before the accident happened, and as having received nothing from the other or others.

(6) A pension under this section payable to a woman who, at the deceased's death, was a widow or an unmarried woman shall not be payable for any period after her remarriage or marriage.

(7) A widow or an unmarried woman shall be disqualified for receiving a pension under this section if and so long as she and any person are cohabiting as man and wife.

(8) (*a*) In the foregoing subsections of this section " parent "—

(i) if the deceased was adopted pursuant to the provisions of the Adoption Acts, 1952 and 1964, shall be taken as referring to the adopters or the adopter, and

(ii) includes a stepparent,

and " father " and " mother " shall be construed accordingly.

(*b*) Subject to *subparagraph* (*i*) of the foregoing paragraph, in the foregoing subsections of this section " parent ", if the deceased was illegitimate, shall be taken as referring to the mother of the deceased.

Death benefit—orphans qualified for purposes of this Act.

21.—(1) Death benefit shall be payable in respect of an orphan qualified for the purposes of this Act who is a child or step-child of the deceased, and in respect of an orphan so qualified who was wholly or mainly maintained by the deceased at the date of his death.

(2) In the case of an orphan, death benefit shall be a pension at the weekly rate of forty-seven shillings and sixpence.

(3) Section 24 of the Principal Act shall apply to a pension under this section as it applies to an orphan's (contributory) allowance.

Death benefit—funeral expenses.

22.—(1) Death benefit by way of a grant of fifty pounds in respect of funeral expenses shall, subject to the subsequent provisions of this section, be payable in respect of the death of the deceased.

(2) In any such case as may be specified by regulations, the reference to fifty pounds in *subsection* (*1*) of this section shall be construed as a reference to such amount less than fifty pounds as may be specified by the regulations for that case.

(3) Except where regulations otherwise provide, a grant under this section shall not be payable in respect of a death occurring outside the State.

Insurance against prescribed diseases and injuries not caused by accident.

23.—(1) Subject to the provisions of this section, a person who is insured under the Acts against personal injury caused by accident arising out of and in the course of his employment shall be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of that employment and developed on or after the appointed day.

(2) A disease or injury shall be prescribed for the purposes of this section in relation to any insured persons, if the Minister is satisfied that—

(*a*) it ought to be treated, having regard to its causes and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons, and

(*b*) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for the purposes of this section may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force but not before the appointed day, shall be treated for the purposes of this section, subject to any prescribed modifications, as if the regulations had been in force when he developed the disease or injury.

(4) Provision may be made by regulations for determining the time at which a person is to be treated for the purposes of the Acts as having developed any disease or injury prescribed for the purposes of this section, and the circumstances in which any such disease or injury is, where the person in question has previously suffered therefrom, to be treated as having recrudesced or as having been contracted or received afresh.

(5) The benefit payable pursuant to this section in respect of a prescribed disease or injury, and the conditions for the receipt of such benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject, however, to the power to make different provision by regulations as respects any matter which is to be prescribed and to the following provisions of this section.

(6) Regulations may provide, in relation to prescribed diseases and injuries, for modifying the provisions of this Act relating to injury benefit and disablement benefit and for adapting references in this Act to accidents, and for modifying the provisions of the Acts in their application in relation to claims for benefit and in relation to questions arising in connection therewith or with an award of benefit on any such claim.

(7) Without prejudice to the generality of the foregoing subsection, the said regulations may in particular include provision—

(*a*) for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,

(ii) not to be due to the nature of a person's employment unless he was employed in some prescribed employment at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;

(*b*) for such matters as appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of the foregoing provisions of this section.

(8) Nothing in this section shall affect the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Act, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

Supplements to workmen's compensation payments.

24.—(1) Regulations shall provide for conferring on persons who—

(*a*) are or have been on or after the 1st day of October, 1965, entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and

(*b*) as the result of the injury or disease are, or could for the purpose of the provisions of this Act relating to unemployability supplement be treated as being, incapable of work and likely to remain permanently so incapable,

the like right to payments under this Act by way of unemployability supplement and the like right to payments under this Act in respect of a child or adult dependant as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

(2) Regulations shall also provide for conferring on persons who—

(*a*) are or have been on or after the 1st day of October, 1965, entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and

(*b*) as the result of that injury or disease require constant attendance,

the like right to payments under this Act in respect of the need of constant attendance as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of one hundred per cent.

(3) Such regulations may further provide for applying, in relation to payments under this section, the provisions of the Acts relating to benefit and to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to an unemployability supplement, to an increase of a disablement pension in respect of a child or adult dependant, or to an increase of a disablement pension in respect of the need of constant attendance, as the case may be, subject to any additions or modifications.

(4) No payment shall be made under this section in respect of any period before the appointed day.

(5) All payments under this section shall be paid out of the Occupational Injuries Fund.

Limitation of benefits by pre-accident earnings.

25.—(1) The weekly rate of injury benefit, including any increase thereof, or of disablement pension, including any increase thereof, shall not exceed the beneficiary's weekly earnings from insurable (occupational injuries) employment at the time of the relevant accident.

(2) Where, in respect of the whole or part of any week for which a beneficiary is entitled to payment of a disablement pension, any one of the following is also payable to him—

(*a*) disability benefit,

(*b*) unemployment benefit,

(*c*) unemployment assistance under the Unemployment Assistance Acts, 1933 to 1965,

and the aggregate of the two payments would otherwise exceed the beneficiary's weekly earnings from insurable (occupational injuries) employment at the time of the relevant accident, the weekly rate of the disablement pension, including any increase thereof, shall be reduced in respect of that week by the amount of the excess.

(3) The foregoing subsections of this section shall be subject to the proviso that in no case shall the rate payable, including any increase thereof, be reduced below—

(*a*) in case the beneficiary is—

(i) under the age of eighteen years, or

(ii) being over the age of eighteen years, a married woman other than a married woman living apart from and unable to obtain any financial assistance from her husband,

and, if injury benefit is payable, is not entitled to an increase of benefit in respect of a child qualified for the purposes of this Act or children so qualified or for an adult dependant or, if disablement pension is payable,

would not be so entitled if injury benefit rather than disablement pension were payable—fifteen shillings and sixpence, and

(*b*) in any other case—twenty-three shillings.

(4) For the purposes of the foregoing subsections of this section, the weekly earnings of a person from insurable (occupational injuries) employment at the time of the relevant accident shall be the rate of his remuneration at that time for a full normal working week in the employment in which the accident occurred, overtime being disregarded for this purpose, or, if he was not employed full time in that employment at the time of the relevant accident, the rate of remuneration which would be provided by his employer for a full normal working week in that employment, overtime being disregarded:

Provided that—

(*a*) where a person was being remunerated otherwise than at a weekly rate, the weekly earnings of such person from insurable (occupational injuries) employment at the time of the relevant accident shall be the rate of remuneration which he would earn for a full normal working week in that employment, overtime being disregarded,

(*b*) where by reason of the casual nature of the employment or the terms of the employment, it is impracticable to compute the rate of remuneration which would be provided by the employer for a full normal working week at the time of the relevant accident, regard may be had to the weekly amount which was being earned at that time by a person employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district, and

(*c*) for the purposes of *subsection* (*1*) of this section in the case of disablement pension and for the purposes of *subsection* (*2*) of this section, the weekly remuneration, overtime being disregarded, provided during any period after the relevant accident in an employment in which a person was employed at the time of the relevant accident may be substituted with respect to that period for his actual weekly earnings at the time of the relevant accident if this would be more beneficial to him; and account shall be taken for this purpose (where appropriate) of a person's reasonable prospects of advancement to full adult rate of remuneration.

(5) Where—

(*a*) a person is, by virtue of regulations under *section 24* of this Act, entitled to weekly payments under this Act, and

(*b*) the amount of any such payment or payments for any week together with the weekly payment of compensation to which he is entitled under the Workmen's Compensation Acts (or where he has ceased to be entitled to weekly payments of compensation under those Acts, the last such weekly payment) is in excess of the weekly earnings, overtime being disregarded, for the time being provided in the employment in which the relevant accident happened or due to the nature of which the relevant disease was contracted, account being taken for this purpose (where appropriate) of a person's reasonable prospects of advancement to full adult rate of remuneration,

the amount of the weekly payment or payments under this Act for that week shall be reduced by the excess.

In this subsection "relevant accident" means the accident in respect of which the weekly payment of compensation became payable and "relevant disease" means the disease in respect of which that payment became payable.

(6) For the purposes of this section, where the amount of weekly earnings consists of a whole number of shillings and a part of a shilling, the amount shall be taken as being the next higher whole number of shillings.

Payment of cost of medical care.

26.—(1) Subject to the provisions of this section, the cost of medical care which, in the opinion of the Minister, is reasonably and necessarily incurred by an insured person as a result of an injury or disease against which, when it was sustained or contracted, he was insured under the Acts shall be payable out of the Occupational Injuries Fund to the extent that such cost is not met under the Health Acts, 1947 to 1966, or the Mental Treatment Acts, 1945 to 1966, or regulations made under section 25 of the Principal Act.

(2) Where an insured person is eligible to avail himself of services provided under the Health Acts, 1947 to 1966, or the Mental Treatment Acts, 1945 to 1966, or treatment benefit under regulations made under section 25 of the Principal Act, but does not do so, the amount payable under this section shall not exceed that which would have been payable had he availed himself of such services or benefit.

(3) Where an insured person receives medical care during any period in which he is an in-patient in a hospital or similar institution, the amount payable under this section in respect of such care shall not exceed—

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(*a*) the maximum amount which would be chargeable under subsection (4) of section 15 of the Health Act, 1953, to an insured person to whom the institutional services provided under that section are made available for that period, or

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(*b*) the maximum amount which would be chargeable under section 231A of the Mental Treatment Act, 1945, to an insured person to whom mental hospital assistance is made available for that period,

as may be appropriate.

(4) The amount payable under this section in respect of medical care provided otherwise than during a period in which the insured person is an in-patient in a hospital or similar institution shall be such sum as is, in the opinion of the Minister, reasonably appropriate to the care afforded, having regard to the reasonable necessity for such care and the customary charge therefor, but, in respect of an X-ray examination or other specialist service, the amount so payable shall not exceed the maximum amount which would be chargeable under subsection (5) of section 15 of the Health Act, 1953, to an insured person.

(5) Where an insured person requires medical care as a result of an injury or disease against which, when it was sustained or contracted, he was insured under the Acts, he or such other person as may be prescribed shall, within such period as may be prescribed, give notice in writing to the Minister of the care required by him, and shall furnish such particulars as may be required of such care, and no payment under this section shall be made unless the notice is given and, where any particulars are required as aforesaid, those particulars are furnished.

(6) Where notice is given under the foregoing subsection, the insured person may be required to submit himself to medical examination for the purpose of establishing that the medical care is necessary as a result of the relevant accident or disease and that it is reasonable in his case, and no payment shall be made under this section if he fails to comply with the requirement.

(7) Payments under this section shall be made to such persons as the Minister thinks fit and, in particular, where the cost of the medical care payable under this section is due to a health authority, payment may be made to that authority.

(8) Regulations may provide for applying in relation to payments under this section any of the provisions of the Acts relating to benefit and to the making of claims, subject to any additions or modifications.

(9) For the purposes of this section medical care shall comprise, subject to any additions which may be made by regulations,—

(*a*) general practitioner and specialist care, including domiciliary visiting,

(*b*) nursing care at home except where the cost is met by an increase under *section 13* of this Act in respect of constant attendance, and nursing care and maintenance in hospitals, convalescent homes, sanatoria or other medical institutions,

(*c*) pharmaceutical and other medical or surgical supplies, including prosthetic and aural appliances, prescribed by a registered medical practitioner, kept in repair, and replaced where necessary,

(*d*) dental and optical treatment and appliances,

(*e*) the care furnished, on the prescription of a registered medical practitioner, by members of professions allied to the medical profession, including physiotherapists and chiropodists.

Notice of accidents.

27.—(1) Regulations may provide for requiring the prescribed notice of any accident in respect of which occupational injuries benefit or any amount under *section 26* of this Act may be payable to be given within the prescribed time by the insured person, or, where within that time his death results from the accident, by such other person as may be prescribed, to the insured person's employer or other prescribed person.

(2) In a case of failure without good cause to give the prescribed notice referred to in the foregoing subsection (including, in the case of a claim for death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident), regulations may provide for disqualification for receipt of occupational injuries benefit or any amount under *section 26* of this Act for such period as may be determined in accordance with the regulations.

Reporting of accidents by employers.

28.—Regulations may provide for requiring employers—

(*a*) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which occupational injuries benefit or any amount under *section 26* of this Act may be payable,

(*b*) to furnish to the prescribed person any information required for the determination of claims for occupa-

tional injuries benefit or of questions arising in connection with claims for or awards of that benefit,

(*c*) to take such other steps as may be prescribed to facilitate the giving of notices of accidents in respect of which occupational injuries benefit or any amount under *section 26* of this Act may be payable, the making of claims for that benefit, and the determination of claims for that benefit and of questions arising in connection with claims for or awards of that benefit.

Declaration that accident is an occupational accident.

29.—(1) Where, in relation to any claim for occupational injuries benefit, it is decided that the relevant accident was or was not an occupational accident, an express declaration of that fact shall be made and recorded and (subject to the provisions of *subsection* (*3*) of this section) a claimant shall be entitled to have the question whether the relevant accident was an occupational accident decided notwithstanding that his claim is disallowed on other grounds.

(2) Subject to the provisions of the next following subsection, any person suffering personal injury by accident shall be entitled, if he claims that the accident was an occupational accident, to have that question decided, and a declaration made and recorded accordingly, notwithstanding that no claim for occupational injuries benefit has been made in connection with which the question arises, and the provisions of the Acts shall apply for that purpose as if the question had arisen in relation to a claim for occupational injuries benefit.

(3) Notwithstanding anything contained in the foregoing subsections of this section, the deciding officer or appeals officer, as the case may be, may refuse to determine the question whether an accident was an occupational accident if satisfied that it is unlikely that it will be necessary to decide the question for the purposes of any claim for occupational injuries benefit, but any such refusal of a deciding officer shall, on notice of appeal being given to the Minister within the prescribed time, be referred to an appeals officer.

(4) Subject to the provisions of the Acts as to appeal and revision, any declaration under this section that an accident was or was not an occupational accident shall be conclusive for the purposes of any claim for occupational injuries benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made.

(5) For the purposes of this section, an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an occupational accident if—

(*a*) it arises out of and in the course of his employment,

(*b*) that employment is insurable (occupational injuries) employment, and

(*c*) payment of occupational injuries benefit is not precluded because the accident happened while he was outside the State,

and references in other sections of this Act to an occupational accident shall be construed accordingly.

Extension of section 47 of Principal Act with respect to certain payments.

30.—Regulations made pursuant to section 47 of the Principal Act as to the time of payment of occupational injuries benefit other than injury benefit may provide, notwithstanding anything

contained in the Acts, for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that payment shall not be made in respect of periods less than a week or at different rates for different parts of a week.

Disqualifications for injury benefit or disablement benefit and suspensions of proceedings.

31.—(1) Regulations may provide for disqualifying a person for receiving injury benefit or disablement benefit for any period not exceeding six weeks, or for suspending proceedings on any claim for, or on any payment of, injury benefit or disablement benefit, if the person fails without good cause—

(*a*) to submit himself from time to time to medical examination for the purpose of determining the effect of the relevant accident, whether the accident has resulted in a loss of faculty, at what degree the extent of disablement resulting from a loss of faculty is to be assessed and what period is to be taken into account by the assessment, or the treatment appropriate to the relevant injury or loss of faculty,

(*b*) to submit himself from time to time to appropriate medical treatment for the relevant injury or loss of faculty,

(*c*) to attend at such places and times as may be required for the purposes of the said medical examination or treatment, or

(*d*) to observe any prescribed rules of behaviour.

(2) Regulations under this section shall provide for payment to any person attending for medical examination or treatment as aforesaid of such amount as may be determined by the Minister as the amount of the reasonable and necessary travelling and other expenses (including any expense consisting of loss of remunerative time) incurred by the person in respect of the attendance.

Treating person as incapable of work, etc.

32.—Regulations may provide for treating a person for the purposes of this Act as incapable of work as the result of an accident or injury when he would not be so treated apart from the regulations, and may also make provision—

(*a*) as to the days which, in the case of a person who at any time is or is to be treated as incapable of work as the result of an accident or injury, are or are not to be treated for the purpose of occupational injuries benefit as days of incapacity for work, and

(*b*) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of occupational injuries benefit as the day of the accident.

Medical treatment and approved hospital treatment.

33.—(1) For the purposes of this Act "medical treatment" means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references in this Act to a person receiving or submitting himself to medical treatment shall be construed accordingly.

(2) References in this Act to a person receiving approved hospital treatment shall be construed, in relation to any occupational injuries benefit payable to him, as referring to his receiving, as an in-patient in a hospital or similar institution, with the approval of the Minister medical treatment for the relevant injury or loss of faculty.

(3) Regulations may provide that where a person receives medical treatment as an in-patient for two or more distinct periods separated by an interval or intervals of less than a specified

duration, he shall be treated for the purposes of this Act as receiving it continuously from the beginning of the first period until the end of the last.

Rehabilitation.

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34.—(1) The Minister may make, towards the cost of rehabilitation services (including rehabilitation services provided under section 50 of the Health Act, 1953) for persons entitled to disablement benefit, such contributions as he may, with the consent of the Minister for Finance, determine.

(2) The amounts required for any contributions under this section shall be paid out of the Occupational Injuries Fund.

Research.

35.—(1) The Minister may promote research into the causes and incidence, and methods of prevention of—

(*a*) accidents and injuries against which occupational injuries insurance is provided, or

(*b*) diseases against which such insurance is provided or which it is contemplated may be prescribed for the purposes of *section 23* of this Act,

either by himself employing persons to conduct the research or by contributing to the expenses of, or otherwise assisting, other persons engaged in the research.

(2) The Minister may pay to persons employed as aforesaid such salaries or other remuneration, and such travelling or other allowances, as he may, with the consent of the Minister for Finance, determine.

(3) The amounts required for any payments under this section shall be paid out of the Occupational Injuries Fund.

Employment contributions.

36.—(1) Every person, irrespective of age, who, on or after the appointed day, is employed in insurable (occupational injuries) employment shall be an employed contributor and references in the Acts to an employed contributor shall be construed accordingly.

(2) As respects an employed contributor who, but for *subsection* (*1*) of this section, would not be an employed contributor—

(*a*) in case he is under the age of sixteen years, no employment contributions shall be payable,

(*b*) in any other case (including a case in which he is over pensionable age) the weekly employment contributions shall consist of employers' contributions only of 2s. 1d. in the case of a male employed contributor and 1s. 6d. in the case of a female employed contributor.

(3) As respects an employed contributor who is an employed contributor by virtue of both section 4 of the Principal Act and *subsection* (*1*) of this section, the weekly rates of employers' contributions set out in the Second Schedule to the Principal Act shall each be increased by 2s. 1d. in the case of a male employed contributor and by 1s. 6d. in the case of a female employed contributor.

(4) An employment contribution payable by virtue of *paragraph* (*b*) of *subsection* (*2*) of this section shall not be reckoned for the purposes of qualifying or requalifying any person for any of the benefits referred to in paragraphs (*a*) to (*g*) of subsection (1) of section 14 of the Principal Act.

(5) The occupational injuries insurance of any person shall be disregarded in determining his right to become or to continue to be

a voluntary contributor and the rate of voluntary contribution payable in any case shall not be affected by such insurance.

(6) Paragraph (*b*) of subsection (4) of section 6 of the Principal Act is hereby extended so as to have effect where no services have been rendered during a week by the employed contributor and he has been in receipt of injury benefit for, or unemployability supplement referable to, the whole or any part of the week.

(7) References in subsections (4) and (5) of section 2, subsection (1) of section 42 and subsections (3) and (6) of section 49 of the Principal Act to insurable employment shall be construed as referring also to insurable (occupational injuries) employment.

Occupational Injuries Fund.

37.—(1) There shall be established a fund (to be called the Occupational Injuries Fund) comprising a current account, to be managed and controlled by the Minister, and an investment account, to be managed and controlled by the Minister for Finance.

(2) (*a*) Notwithstanding any provision to the contrary, occupational injuries benefits, together with any other payments which under this Act are payable out of the Occupational Injuries Fund, shall be paid out of the current account of that Fund, and, for the purpose of providing the moneys for meeting the expenditure on such benefits and other payments, employment contributions paid into the Social Insurance Fund consequent upon *subsection (2)* of *section 36* of this Act and increases of employment contributions so paid consequent upon *subsection (3)* thereof shall be paid out of that Fund to the current account of the Occupational Injuries Fund.

(*b*) The following sums paid out of the Social Insurance Fund shall be repaid to that Fund out of the Occupational Injuries Fund :

(i) sums paid by way of disability benefit in respect of incapacity for work arising out of an occupational accident, or a disease or injury prescribed for the purposes of *section 23* of this Act, to a person who is entitled to disablement benefit in respect of such accident, disease or injury,

(ii) sums paid, in respect of any period commencing not earlier than the appointed day, by way of disability benefit in respect of incapacity for work arising out of an injury or disease, being sums paid to a person who is or has been on or after the 1st day of October, 1965, entitled to weekly payments of compensation under the Workmen's Compensasion Acts in respect of such injury or disease.

(3) Moneys standing to the credit of the current account of the Occupational Injuries Fund and not required to meet current expenditure shall be transferred to the investment account of that Fund.

(4) Whenever the moneys in the current account of the Occupational Injuries Fund are insufficient to meet the liabilities of that account, there shall be transferred to that account from the investment account of that Fund such sums as may be necessary for the purpose of discharging those liabilities.

(5) Subject to *subsection (4)* of this section, moneys standing to the credit of the investment account of the Occupational Injuries Fund shall be invested by the Minister for Finance and income arising from any such investment shall be paid into that account.

(6) An investment pursuant to *subsection* (*5*) of this section may be in any securities in which trustees are for the time being by law empowered to invest trust funds or in any of the stocks, funds and securities as are for the time being authorised by law as investments for Post Office Savings Bank Funds.

(7) Accounts of the Occupational Injuries Fund shall be prepared in such form, in such manner and at such times as the Minister for Finance may direct and the Comptroller and Auditor General shall examine and certify every such account and a copy thereof, together with the report thereon of the Comptroller and Auditor General, shall be laid before each House of the Oireachtas.

(8) There shall be recoverable from the Occupational Injuries Fund at such times and in such manner as may be directed by the Minister for Finance—

(*a*) expenses of the Minister (determined on such basis as he considers proper) relating to the extension pursuant to this Act of social insurance, and

(*b*) expenses of any other Minister (determined on such basis as may be agreed upon between him and the Minister) relating to that extension.

(9) Moneys received pursuant to *subsection* (*8*) of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

(10) In estimating expenses for the purposes of *subsection* (*8*) of this section, there shall be included such amount as, in the opinion of the Minister for Finance, represents the amount of the accruing liability in respect of any superannuation or other retiring allowances, lump-sums or gratuities accruing in respect of the employment of any officer or other person for the purposes of this Act.

(11) (*a*) During the period of two years beginning on the appointed day, the Minister for Finance may, out of the Central Fund or the growing produce thereof, advance any sums required for the purpose of discharging the liabilities of the Occupational Injuries Fund, and for the purpose of providing the sums to be so advanced the Minister for Finance may borrow money in such manner as he may think proper and all moneys so borrowed shall be paid into the Exchequer.

(*b*) Any sums advanced under the foregoing paragraph, together with interest (if any) thereon at such rate as may be fixed by the Minister for Finance, shall be charged on and be repayable out of the Occupational Injuries Fund and when so repaid shall be paid into the Exchequer.

(*c*) The principal of and interest on any securities issued by the Minister for Finance for the purpose of borrowing under this subsection and the expenses incurred in connection with the issue of such securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

(12) (*a*) The Minister shall cause actuarial reviews to be made into the financial condition of the Occupational Injuries Fund, having regard, in particular, to the adequacy, or otherwise, of the contributions to support the benefits and other payments, and shall cause a copy of every report of the actuary under this subsection to be laid before each House of the Oireachtas.

(*b*) A review under this subsection shall be made in respect of the period ending with the 31st day of March next after the expiration of the period of five years beginning on the appointed day and thereafter in respect of the period ending with the 31st day of March in every fifth year, subject to the proviso that the Minister may vary the period to be covered by any such review.

(13) References in sections 32, 52, 54 and 57 of the Principal Act to the Fund shall be construed as referring also to the Occupational Injuries Fund.

Modification of sections 44, 45 and 46 of Principal Act.

38.—Sections 44, 45 and 46 of the Principal Act shall have effect as if the words " question specified in paragraph (*a*), (*b*) or (*c*) of subsection (1) of section 42 of this Act ", wherever they occur in those sections, did not include a reference to a question arising under this Act as to whether an accident arose out of and in the course of employment.

Taking of benefit into account in assessing damages. 1964, No. 17.

39.—(1) Notwithstanding section 2 of the Civil Liability (Amendment) Act, 1964, and section 34 of the Principal Act, in an action for damages for personal injuries (including any such action arising out of a contract), there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, the value of any rights which have accrued or probably will accrue to him therefrom in respect of injury benefit or disablement benefit (disregarding any increase thereof under *section 13* of this Act in respect of constant attendance) for the five years beginning with the time when the cause of action accrued.

(2) The reference in *subsection (1)* of this section to assessing the damages for personal injuries shall, in cases where the damages otherwise recoverable are subject to reduction under the law relating to contributory negligence or are limited by or under any Act or by contract, be taken as referring to the total damages which would have been recoverable apart from the reduction or limitation.

(3) Notwithstanding section 50 of the Civil Liability Act, 1961, in assessing damages in respect of a person's death under Part IV of that Act, account may be taken of any death benefit, by way of grant under *section 22* of this Act in respect of funeral expenses, resulting from that person's death. 1961, No. 41.

Repeals. 1961, No. 41.

40.—Workmen's compensation under the Workmen's Compensation Acts, 1934 to 1955, as amended by Part V of the Civil Liability Act, 1961, shall not be payable in respect of any employment on or after the appointed day, and accordingly the Workmen's Compensation Acts, 1934 to 1955, and Part V of the Civil Liability Act, 1961, are hereby repealed as from that day:

Provided that—

(*a*) those Acts shall continue to apply to cases to which they would have applied if this Act had not been passed, being cases where a right to compensation arises or has arisen in respect of employment before the appointed day, except where, in the case of a disease or injury prescribed for the purposes of *section 23* of this Act, the right does not arise before the appointed day and the workman, before it does arise, has been insured under this Act against that disease or injury;

(*b*) the repeal of the Workmen's Compensation Act, 1934, shall not affect any rules of court made under that Act or the power to make new rules of court for the purposes of that Act; and 1934, No. 9.

(*c*) the repeal of subsection (1) of section 13 of the Workmen's Compensation Act, 1934, shall not affect the application of the Acts repealed by that Act or by the Workmen's Compensation Act, 1906, to cases to which by virtue of that subsection they are to continue to apply.

1906, c. 58.

Power to remove difficulties.

41.—(1) If in any respect any difficulty arises in bringing into operation this Act or any amendment or repeal effected by this Act, the Minister may, subject to the sanction of the Minister for Finance, by order do anything which appears to be necessary or expedient for bringing this Act into operation, and any such order may modify the provisions of the Acts so far as may appear necessary or expedient for carrying the order into effect.

(2) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either House of the Oireachtas within the next twenty-one days on which that House has sat after the order is laid before it annulling such order, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under the order.

(3) No order may be made under this section after the expiration of one year after the appointed day.

Amendment of Local Government (Superannuation) Act, 1956.

1956, No. 10.

42.—(1) The definition of " service day " contained in section 2 of the Local Government (Superannuation) Act, 1956, is hereby amended by the insertion after paragraph (*b*) of the following paragraph :

" (*bb*) a day (other than a Sunday) in respect of which the servant was paid injury benefit or disablement benefit under the *Social Welfare (Occupational Injuries) Act, 1966*, provided that—

(i) the accident occurred (or, as the case may be, the injury was sustained or the disease was contracted) on a day such as is referred to in paragraph (*a*) of this definition,

(ii) either—

(I) the whole of the period in respect of which the benefit was paid was not more than one year, or

(II) where the whole of the period in respect of which the benefit was paid was more than one year, the day occurred during such portion of the period as was before the expiration of one year from its commencement, and

(iii) in the case of a day in respect of which the servant was paid disablement benefit, it was a day on which he was incapable of work or unable, solely because of the said accident, injury or disease, to work in the manner referred to in paragraph (*a*) of this definition,".

(2) The definition of "wages" contained in section 2 of the Local Government (Superannuation) Act, 1956, is hereby amended by the insertion after paragraph (*a*) of the following paragraph:

" (*aa*) in the case of a servant who is being paid injury benefit or disablement benefit under the *Social Welfare (Occupational Injuries) Act, 1966*, includes, if the accident occurred (or, as the case may be, the injury was sustained or the disease was contracted) on a day such

as is referred to in paragraph (*a*) of the definition of 'service day' contained in this section and if, where he is being paid disablement benefit, he is incapable of work or unable, solely because of the said accident, injury or disease, to work in the manner referred to in the said paragraph (*a*), the wages that he would have received if he had not been in receipt of such benefit, and ".

(3) Subsection (1) of section 43 of the Local Government (Superannuation) Act, 1956, is hereby amended by the addition at the end of the subsection of " or in respect of a period in respect of which he was paid injury benefit or disablement benefit under the *Social Welfare* (*Occupational Injuries*) *Act, 1966*, if the accident occurred (or, as the case may be, the injury was sustained or the disease was contracted) on a day such as is referred to in paragraph (*a*) of the definition of 'service day' contained in section 2 of this Act and if, in the case of a period in respect of which he was paid disablement benefit, he was, during it, incapable of work or unable, solely because of the said accident, injury or disease, to work in the manner referred to in the said paragraph (*a*) ".

Short title, construction and collective citation.

43.—(1) This Act may be cited as the Social Welfare (Occupational Injuries) Act, 1966, and shall be construed as one with the Social Welfare Acts, 1952 to 1965.

(2) The Social Welfare Acts, 1952 to 1965, and this Act may be cited together as the Social Welfare Acts, 1952 to 1966.

AN BILLE LEASA SHOISIALAIGH (DIOBHALACHA CEIRDE), 1965

BILLE

dá ngairtear

Acht do leathnú an chórais leasa shóisialaigh a bunaíodh leis an Acht Leasa Shóisialaigh, 1952, ionas go mbeidh feidhm aige maidir le díobhálacha ceirde agus galair cheirde, d'aisghairm na nAcht um Chúiteamh do Lucht Oibre, 1934 go 1955, agus chun críocha a bhaineann leis na nithe réamhráite.

Rite ag dhá Theach an Oireachtais,
30 *Meitheamh,* 1966

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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SOCIAL WELFARE (OCCUPATIONAL INJURIES) BILL, 1965

BILL

entitled

An Act to extend the system of social insurance established by the Social Welfare Act, 1952, so as to apply in relation to occupational injuries and diseases, to repeal the Workmen's Compensation Acts, 1934 to 1955, and for purposes connected with the matters aforesaid.

Passed by both Houses of the Oireachtas,
30*th June,* 1966

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