

## 1983 No. 101

## SOCIAL SECURITY

The Workmen's Compensation (Supplementation) Regulations  
(Northern Ireland) 1983

Made . . . . . 3rd May 1983

Coming into operation . . . . . 6th June 1983

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 2, 3, 4, 5, 6, 7 and 8 of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975(a) and paragraph 13 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(b) and of all other powers enabling it in that behalf and with the consent of the Department of Finance and Personnel for Northern Ireland(c) and for the purpose only of consolidating regulations hereby revoked, hereby makes the following regulations:

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- (a) 1975 c. 17; section 4(8) was amended by paragraph 17 of Schedule 4 to the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) and section 4(9) was inserted by Article 9(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11))
  - (b) 1975 c. 18
  - (c) Formerly the Department of Finance: see S.I. 1982/338 (N.I. 6), Article 3

## PART I

## GENERAL

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1983 and shall come into operation on 6th June 1983.

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

“the Act” means the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975;

“the Social Security Act” means the Social Security (Northern Ireland) Act 1975(a);

“the Act of 1951” means the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951(b);

“the Act of 1966” means the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966(c);

“allowance” means an allowance payable by virtue of Part II;

“the appropriate determining authority” means an insurance officer or, as the case may be, a local tribunal or a Commissioner within the meaning of section 97 of the Social Security Act(d);

“beneficiary” means a person entitled to an allowance;

“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;

“Commissioner” means a Social Security Commissioner appointed under section 97(3) of the Social Security Act(d);

“corresponding disablement pension rate” means the weekly rate of a pension payable under section 57(6) of the Social Security Act in respect of an assessment of 100 per cent.;

“the Department” means the Department of Health and Social Services for Northern Ireland;

“the insurance officer” means an insurance officer appointed under section 97(1) of the Social Security Act;

“the National Insurance Fund” means the Northern Ireland National Insurance Fund;

“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 been, entitled to weekly payments by way of workmen's compensation;

“unemployment benefit” means unemployment benefit under the Social Security Act;

“workmen's compensation” means compensation under the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943(e), the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927(f), or

(a) 1975 c. 15.

(b) 1951 c. 16 (N.I.)

(c) 1966 c. 14 (N.I.)

(d) See also the Social Security Act 1980 (c. 30), section 12

(e) 1927 c. 16 (N.I.); 1931 c. 16 (N.I.); 1940 c. 18 (N.I.); 1941 c. 16 (N.I.); 1943 c. 6 (N.I.) and 1943 c. 13 (N.I.)

(f) 1927 c. 16 (N.I.)

the enactments repealed by the Workmen's Compensation Act 1906(a) or under any contracting-out scheme duly certified under any of those Acts.

(3) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

## PART II

### ALLOWANCES

#### *Basic allowances*

2.—(1) Subject to the following provisions, a person who is or has at any time after 23rd July 1951 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 National Insurance 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 regulation 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 regulation 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 £2.00, 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 regulation 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 £2.00.

#### *Partial incapacity to be treated as total in certain circumstances*

3.—(1) For the purpose of the references in regulation 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), be treated as subject to such an incapacity—

- (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 appropriate determining authority—
  - (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) 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—

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(a) 1906 c. 58

(b) 1954 c. 33 (N.I.)

- (a) that he would have satisfied either of the conditions set out in sub-paragraph (b) of paragraph (1) 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 regulation shall not apply to any person for any period for which he receives unemployment benefit.
- (4) This regulation shall also apply for the purposes of section 3(3) of the Act of 1966 (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*

4.—(1) Subject to the following provisions, a major incapacity allowance shall be payable out of the National Insurance Fund to a person who is or has since 24th July 1956 been entitled to weekly payments by way of workmen's compensation—

- (a) in respect of any injury or disease 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 2 or more injuries or diseases 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 regulation an allowance payable by virtue of any scheme under the Act of 1951 shall be treated as a weekly payment by way of workmen's compensation.

#### *Lesser incapacity allowances*

5.—(1) Subject to the following provisions, a lesser incapacity allowance shall be payable out of the National Insurance Fund to a person, not being a person entitled to a major incapacity allowance, who was immediately before 23rd May 1966 receiving an allowance payable by virtue of a scheme under the Act of 1951 in force at that time, or who is or has since 1st March 1966 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) In any case where the lesser incapacity allowance awarded to a beneficiary was, immediately before 24th November 1982, of an amount which is shown in the first column of Part I of Schedule 1, the rate of lesser incapacity allowance thereafter shall be the corresponding amount set out in the second column thereof.

(3) In a case to which paragraph (2) does not apply and subject to the provisions of paragraph (4), 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 regulation 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 Part II of Schedule 1, shall be the rate opposite thereto in the second column of that Part and where such loss of earnings is of an amount (not less than 5 pence) not so shown, shall be the rate in the second column opposite to the next larger amount which is so shown.

(4) For the purposes of this regulation—

- (a) 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 said second column opposite to such largest amount;
- (b) 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 £2.00.

(5) In this regulation 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.

(6) For the purposes of this regulation a weekly payment by way of workmen's compensation made to any person shall be deemed to be a notional payment if—

- (a) the amount of such weekly payment is less than 2½ pence; or
- (b) during the period of 12 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 2½ pence;

unless that person proves that such weekly payment is not a notional payment.

#### *Amount of workmen's compensation*

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

(2) For the purposes of paragraph (1)—

- (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 regulation be taken to be the reduced amount so fixed with the addition of the amount of the reduction;
- (b) where the amount of those weekly payments has not been fixed under the provisions relating thereto, it shall be fixed for the purposes of this regulation without regard to any such payment, allowance or benefit as aforesaid;
- (c) where an allowance or allowances under these regulations 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 ought reasonably and properly to be so fixed, the amount of those weekly payments shall, for the purposes of this regulation, be taken to be such as 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.

(3) Where a person is or has at any time after 23rd July 1951 been entitled to payments under the Workmen's Compensation (War Addition) Acts 1917 and 1919(a) but had on or 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 regulations 2, 4 and 5 be calculated as if he had not ceased to be entitled to such other payments.

(4) Where a person is or since 1st March 1966 has been entitled to payments under the Workmen's Compensation (Supplementary Allowances) Act (Northern Ireland) 1940(a), as amended by the Workmen's Compensation (Temporary Increases) Act (Northern Ireland) 1943(b), 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 regulations 4 and 5, be calculated as if he had not ceased to be entitled to such other payments.

(5) 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 12 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 regulations 2, 4 and 5 be calculated or estimated in such manner and on such basis as may be appropriate, having regard to all the circumstances of the case.

#### *Computation of loss of earnings*

7.—(1) For the purposes of section 2(6)(a) of the Act and of these regulations the amount representing a person's loss of earnings due to the relevant injury or disease shall, subject to the provisions of regulation 10(3) and of paragraph (5) be ascertained by comparing the standard of remuneration obtaining during the period of 12 months, or such shorter period as the appropriate determining authority may determine, ending with the day on which that person makes a claim for an allowance, 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.

(2) Where the amount representing a person's loss of earnings has been ascertained in accordance with paragraph (1) and the period taken into account for that purpose was 3 months or less, a final calculation of that person's loss of earnings shall be made 6 months after the date on which the claim was made for the purpose of comparing the standard of remuneration obtaining during that later period in the class of employment in which he was employed at the time when the accident happened or the disease developed with the amount which he was earning or able to earn during the said period in some suitable employment or business.

(3) 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.

(4) Notwithstanding the provisions of paragraphs (1) and (2), in any case where lesser incapacity allowance was in payment to a person before 15th November 1976 and that allowance is based on a computation of the loss of earnings due to the relevant injury or disease at a certain amount, that amount shall continue to represent that person's loss of earnings for the purposes of these regulations.

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

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(a) 1940 c. 18 (N.I.)

(b) 1943 c. 13 (N.I.)

- (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 standard of remuneration shall be taken to be such as is appropriate, having regard to all the circumstances of the case;
- (b) in a case of disease, where a person proves 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 amount which represents a person's weekly loss of earnings under paragraph (1) may be determined 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 any legislation applicable only to Great Britain*

8. Subject to the provisions of any reciprocal arrangements made by the Head of the Department under section 8 of the 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 applicable only to Great Britain 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 applicable only to Great Britain 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 applicable only to Great Britain 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—

- (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 to the Workmen's Compensation Act 1906<sup>(a)</sup> or section 16 of the Workmen's Compensation Act (Northern Ireland) 1927<sup>(b)</sup> 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 appropriate determining authority is satisfied that the said incapacity is likely to be of a permanent nature.

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(a) 1906 c. 58

(b) 1927 c. 16 (N.I.)



*Allowances in respect of 2 or more different injuries or diseases*

**10.**—(1) Subject to the provisions of these regulations, where a claimant or beneficiary is entitled for the same period to weekly payments by way of workmen's compensation in respect of 2 or more different injuries or diseases, or has been so entitled at any time since, in the case of basic allowance 23rd July 1951 or, in the case of any other allowance 1st March 1966, he shall be entitled to an allowance under these regulations in respect of each such injury or disease during any period of total or partial incapacity for work resulting from that injury or disease.

(2) For the purpose of paragraph (1), a claimant or beneficiary—

- (a) shall not for the same period be entitled to receive 2 or more basic allowances at an aggregate weekly rate which exceeds £2.00; and
- (b) 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 2 or more of such injuries or diseases, be entitled to receive any other allowance, except for a basic allowance, by reason of any injury or disease; and
- (c) shall not for the same period be entitled to receive 2 or more lesser incapacity allowances at an aggregate weekly rate which exceeds £19.70 or such higher amount as may be specified by section 2(6)(c) of the Act; and
- (d) shall not, in respect of the same period, be entitled to receive 2 or more allowances at an aggregate weekly rate exceeding the corresponding disablement pension rate.

(3) In such a case as is mentioned in paragraph (1), in ascertaining for the purposes of these regulations 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 be treated as the result of any one of them but, in respect of any period during which such results are so treated, the claimant or beneficiary shall not be entitled to receive more than one basic allowance or more than one lesser incapacity allowance under these regulations.

## PART III

## APPLICATION OF CERTAIN REGULATIONS AND DETERMINATION OF QUESTIONS

*Application of certain regulations made under the Social Security Act*

**11.** Subject to regulations 14 and 15, the provisions of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a) and the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(b) which are specified in Schedule 2 shall, with the necessary modifications, apply for the purposes of these regulations.

*Determination of questions arising under the regulations*

**12.** Any question relating to any allowance shall be determined as if it had arisen under the Social Security Act and, except where these regulations otherwise provide, the provisions of the Social Security Act and of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(c) which are specified in Schedule 2 shall, with the necessary modifications, apply for the purposes of these regulations.

(a) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1980 No. 385; S.R. 1982 Nos. 284 and 302 and S.R. 1983 No. 36

(b) S.R. 1976 No. 42; the relevant amending regulation is S.R. 1980 No. 384

(c) S.R. 1975 No. 100; the relevant amending regulations are S.R. 1980 No. 383 and S.R. 1982 No. 29

## PART IV

## CLAIMS AND PAYMENTS

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

13. 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 Department may direct 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 Department and, if so required, shall for that purpose attend at such office or place as the Department may direct.

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

14.—(1) Subject to the following paragraphs, every claimant for, and every beneficiary in receipt of, an allowance shall comply with every notice given to him by the Department which requires him to submit himself to a medical examination by a medical practitioner nominated by the Department.

(2) Every notice given to a claimant or beneficiary requiring him to submit himself to a medical examination shall be given in writing and shall specify the time and place of examination but shall not require the claimant or beneficiary to submit himself to examination on a date earlier than the third day after the date on which the notice was sent.

(3) Every claimant and every beneficiary who, in accordance with the foregoing paragraphs, is required to submit himself to a medical examination shall attend at every such place and at every such time as may be required.

*Sums not payable when delay in claiming*

15. An allowance shall not be payable to any person in respect of any period more than 6 months before the claim for the allowance is made, except that in any particular case the allowance shall be payable from such earlier date as is reasonable in the circumstances, not being a date before the date from which, apart from this regulation, the allowance would be payable.

*Obligation of beneficiaries to notify change of circumstances*

16. Every beneficiary shall, as soon as may be practicable, notify the Department in writing of any change of circumstances which he might reasonably be expected to know might affect 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 of an allowance.

*Allowances to be inalienable*

17. Subject to the following provisions, 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*

- 18.—(1) Subject to the provisions of paragraph (2), if a claimant or beneficiary—
- (a) fails without reasonable cause to comply with any requirement of regulations 13, 14 or 16 he shall, if the appropriate determining authority so decides, forfeit any allowance which would, apart from this sub-paragraph, be payable in respect of periods of such failure;

(b) wilfully obstructs, or is guilty of other misconduct in connection with any medical examination which he is required under regulation 14 to undergo, or with any proceedings under these regulations for the determination of his right to an allowance or to the receipt thereof, he shall forfeit, for such period as the appropriate determining authority shall determine, any allowance which would, apart from this paragraph, be payable.

(2) Nothing in this regulation providing for forfeiture of an allowance for failure to undergo medical examination or for obstruction or misconduct in connection with such examination shall authorise the disentitlement of the person concerned for a period exceeding 6 weeks on any forfeiture.

#### *Allowances during imprisonment*

19. 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, equal the total amount payable by way of an allowance for a period of one year, that person shall be disqualified from receiving any further sums by way of allowance in respect of such period or any part thereof.

### PART V

#### RECOVERY OF ALLOWANCES

#### *Recovery of sums by deduction from allowances or benefits under the Social Security Act*

20.—(1) Where any sums by way of an allowance are required to be repaid to the National Insurance Fund under these regulations, such sums may, without prejudice to any other method of recovery, be deducted from any allowance or from any benefit under the Social Security Act 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 Department may determine.

(2) Where, in the case of any person, any sum may be recovered by deduction by virtue of any provision of the Social Security Act from any payment under that Act, 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.

### PART VI

#### TRANSITIONAL AND MISCELLANEOUS PROVISIONS

#### *Finality of decisions*

21. Except as provided by regulation 22, any decision given by the Department or the Commissioner, as the case may be, on a claim or question under provisions of the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966(a) in force immediately before 17th October 1977 or under any scheme made under the Act of 1951 in force immediately before 23rd May 1966 shall be final for the purposes of these regulations.

#### *Review of decisions*

22.—(1) The insurance officer may at any time and from time to time review any decision given under the provisions of the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966 in force immediately before 17th October 1977, if—

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(a) S.R. & O. (N.I.) 1966 No. 105

- (a) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or
- (b) there has been any relevant change of circumstances since the decision was given.

(2) The claimant or the Department may raise a question with a view to the review of any decision given under the provisions of the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966 in force immediately before 17th October 1977 by application in writing to the insurance officer stating the grounds of the application.

(3) Where it appears to the Department that a question has arisen whether the award of an allowance to which this regulation relates ought to be revised in accordance with the provisions of paragraph (1), it may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if it does so it shall forthwith refer the question to the insurance officer for determination in accordance with the provisions of this regulation.

(4) Any question arising in connection with a review to which this regulation applies shall be determined and, if appropriate, the decision shall be revised and an allowance awarded or paid in accordance with the provisions in force when the original decision was given.

(5) Where on a review to which this regulation applies a decision is revised so as to make an allowance payable or to increase the rate of an allowance, the decision given on review shall, subject to paragraph (6), have effect from the date of the application for the review or from such earlier date as appears to the appropriate determining authority to be reasonable in the circumstances.

(6) An allowance shall not, by virtue of paragraph (5), become payable from a date earlier than the earliest date from which it could have been payable had it been awarded in the decision being reviewed.

(7) A decision given on review under this regulation, and a refusal to review a decision thereunder, shall be subject to appeal to the local tribunal and the Commissioner on the grounds set out in sub-paragraphs (a) and (b) of paragraph (1).

(8) Where a decision is revised on review under this regulation the decision given on review shall, subject to the provisions of paragraph (9), require repayment to the National Insurance 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.

(9) Notwithstanding the provision of paragraph (8), repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this regulation in any case where it is shown to the satisfaction of the appropriate determining authority that in the obtaining and receipt of the allowance the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(10) For the purposes of this regulation a decision given under any scheme made under the Act of 1951 shall be treated as if it had been a decision given under the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966 as they were immediately before the Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977(a) came into operation.

(11) On the review of a decision given under any scheme made under the Act of 1951 in force before 23rd May 1966, a decision given by an insurance officer 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.

*Conditions for allowance satisfied by previous awards*

23. Any allowance may be paid without any claim or award or awarded without any claim, if, in the opinion of the Department, evidence of the satisfaction of the conditions for that allowance is afforded by the award of an allowance under a scheme revoked by these regulations, or a scheme made under the Act of 1951 or of an allowance under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1956(a).

*Final calculation not made by 24th November 1982*

24.—(1) The provision of paragraph (2) shall apply to a beneficiary who was, before 24th November 1982, in receipt of lesser incapacity allowance but in respect of whom the final calculation of earnings required by regulation 7(2) had not been made by that date.

(2) In such a case as is referred to in paragraph (1) the beneficiary shall be treated as entitled from 24th November 1982 to an allowance at the rate to which he would have been entitled had the final calculation been made before that date.

*Claims not made before 24th November 1982*

25.—(1) The provisions of paragraph (2) shall apply to a person whose claim for lesser incapacity allowance was not made before 24th November 1982 and who is awarded such allowance for a period after that date at one of the rates shown in the second column of Part II of Schedule 1.

(2) Any lesser incapacity allowance which is found to be payable to such a person as aforesaid in respect of a period before 24th November 1982 shall—

- (a) in so far as it relates to the period from 25th November 1981 to 23rd November 1982 inclusive, be paid at the rate shown in the first column of Part I of Schedule 1 which corresponds to the rate awarded to him for the period after 24th November 1982; and
- (b) in so far as it relates to a period before 25th November 1981, be paid at the rate or rates then in force which corresponds or correspond to the rate awarded to him for the period after 24th November 1982.

*Claims made but not determined before 24th November 1982*

26.—(1) The provision of paragraph (2) shall apply to a person whose claim for lesser incapacity allowance was made but not determined before 24th November 1982.

(2) Any lesser incapacity allowance which is found to be payable to such a person as aforesaid in respect of a period before 24th November 1982 shall be paid at the rate or rates in force for that period which corresponds or correspond to that person's loss of earnings.

*Review*

27. Where a lesser incapacity allowance has been awarded to a person under any of the regulations revoked by these regulations before any other such regulations came into operation and a question arises as to the weekly rate of allowance payable in consequence of those other regulations, the case shall be reviewed by the insurance officer in the light of amendments made by those other regulations, and the allowance shall continue to be payable at the weekly rate specified in the award until the question has been determined in accordance with the provisions of these regulations.

*Contracting-out schemes*

28. In relation to a person whose workmen's compensation is or was compensation under a contracting-out scheme, section 3(4) and (7) of the Act (which

(a) 1956 c. 9 (N.I.)

relates to the amount of a person's workmen's compensation) and regulations 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 a 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 is 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*

29. Stamp duty shall not be chargeable upon an appointment or revocation of an appointment of an agent and any other document authorised by or in pursuance of these regulations or otherwise required in order to give effect to the provisions of these regulations.

#### *Reciprocal arrangements with Great Britain*

30. If in pursuance of section 8(1) of the Act (which relates to reciprocal arrangements with Great Britain) the Department makes reciprocal arrangements for payments under any corresponding legislation applicable only to Great Britain to be made out of the National Insurance Fund, the provisions of these regulations shall apply in relation to such payments as if they were payments under these regulations.

#### *Breach of regulations*

31. If any person contravenes or fails to comply with any requirement of regulation 13 or 16 he shall for such offence be liable on summary conviction to a penalty not exceeding £10.

#### *Service by post*

32. Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations may be sent by post to that person at his ordinary or last known address.

#### *Revocations*

33. The regulations specified in column 1 of Schedule 3 are, subject to the transitional provisions contained in Part VI, hereby revoked to the extent mentioned in column 3 of that Schedule.

Ssealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd May 1983.

(L.S.)

A. N. Burns

Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing regulations.

Ssealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 3rd May 1983.

(L.S.)

N. R. Cowling

Assistant Secretary

## SCHEDULE 1

Regulation 5

## PART I

**Table of rates of lesser incapacity allowance for beneficiaries to whom regulation 5(2) applies**

<i>Rate of lesser incapacity allowance before 24th November 1982</i>	<i>Rate of lesser incapacity allowance from 24th November 1982</i>
£	£
1.55	1.70
3.95	4.40
6.70	7.45
9.70	10.75
13.95	15.50
17.75	19.70

## PART II

**Table of loss of earnings and corresponding rate of lesser incapacity allowance**

<i>Loss of earnings</i>	<i>Rate of lesser incapacity allowance</i>
£	£
5.40	1.70
11.80	4.40
18.20	7.45
21.40	10.75
26.25	15.50
Over 26.25	19.70

## SCHEDULE 2

Regulations 11 and 12

**Provisions of the Social Security Act and of regulations made under that Act applicable  
(with the necessary modifications) to these regulations**

<i>Provisions of the Social Security Act and of regulations made thereunder</i>	<i>Subject matter</i>
Social Security Act Section 99 .....	Decision of insurance officer
Section 100 .....	Appeal to local tribunal
Section 101 .....	Appeal from local tribunal to Commissioner
Section 102 .....	Questions first arising on appeal
Section 104 .....	Review of decisions
Section 117 .....	Finality of decisions (in so far as relating to appeals)
The Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a)	
Regulation 4 .....	Manner in which claims are to be made
Regulation 5 .....	Supply of claim forms
Regulation 6 .....	Claims not on appropriate forms
Regulation 8 .....	Amendment of claim forms
Regulation 16 .....	Time and manner of payment of certain pensions and allowances
Regulation 22 .....	Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time
Regulation 28 .....	Persons unable to act
Regulation 29 .....	Payments on death
The Social Security (Determina- tion of Claims and Questions) Regulations (Northern Ireland) 1975(b)	
Regulation 3 .....	Procedure at hearings and in connection with determinations; and right to representation
Regulation 4 .....	Non-disclosure of evidence by local tribunal, medical appeal tribunal, and Commissioner

(a) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1980 No. 385; S.R. 1982 Nos. 284 and 302 and S.R. 1983 No. 36

(b) S.R. 1975 No. 100; the relevant amending regulations are S.R. 1980 No. 383 and S.R. 1982 No. 29



<i>Provisions of the Social Security Act and of regulations made thereunder</i>	<i>Subject matter</i>
Regulation 5 .....	Reference by the Department, an insurance officer or a competent tribunal to medical practitioner for report
Regulation 9 .....	Appeals from insurance officer's decisions
Regulation 10 .....	Time and place of hearings before local tribunals
Regulation 11 .....	Hearings before local tribunals
Regulation 12 .....	Decisions of local tribunals
Regulation 13 .....	Procedure before Commissioner on appeal from a local tribunal
Regulation 26(1) and (2)(a) .....	Review of decisions involving payment or increase of industrial injuries benefit
Regulation 28 .....	Adjustment of industrial injuries benefit on review or appeal
The Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(a)	
Regulation 38 .....	Suspension of payment of benefit
Regulation 39 .....	Suspension of payment of benefit pending appeals or references

## SCHEDULE 3

Regulation 33

## Revocations

<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
(1)	(2)	(3)
The Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966	S.R. & O. (N.I.) 1966 No. 105	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1976	S.R. 1976 No. 272	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977	S.R. 1977 No. 273	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment No.2) Regulations (Northern Ireland) 1977	S.R. 1977 No. 287	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1978	S.R. 1978 No. 315	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1979	S.R. 1979 No. 346	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1980	S.R. 1980 No. 361	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1981	S.R. 1981 No. 346	The whole of the regulations
The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1982	S.R. 1982 No. 341	The whole of the regulations

EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations, which consolidate the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966 with subsequent amending regulations, provide for allowances to be paid out of the National Insurance Fund to supplement workmen's compensation paid in respect of injury or disease arising out of employment before 5th July 1948.

The regulations provide for the determination of questions by the statutory authorities established under the Social Security (Northern Ireland) Act 1975.

The regulations contain provisions relating to claims and payments and provide for the application to the regulations of the provisions of the Social Security (Northern Ireland) Act 1975 and the regulations made under that Act which are specified in Schedule 2. They also contain transitional provisions.