

1983 No. 36

## SOCIAL SECURITY

**The Social Security (Abolition of Injury Benefit) (Consequential) Regulations (Northern Ireland) 1983**

*Made* . . . . . 4th March 1983  
*Coming into operation* . . . . . 6th April 1983

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 15(6), 50(4)(a), 50A(2), 56(7), 60(4), 66(1), 79(1) and (3), 80, 81(1), 82(1) and (5), 85(1), 89(1), 90(2), 114(1) and (2), 115, 119 and 124(1) of, and Schedule 13 to, the Social Security (Northern Ireland) Act 1975(a), Article 18(1) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(b) and Article 32(5) of the Social Security (Northern Ireland) Order 1982(c) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(d) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Abolition of Injury Benefit) (Consequential) Regulations (Northern Ireland) 1983 and shall come into operation on 6th April 1983.

(2) In these regulations—

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

“the Order” means the Social Security (Northern Ireland) Order 1982.

(3) The Interpretation Act 1978(e) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

*Amendment of the Social Security (Industrial Injuries) (Airmen's Benefits) Regulations (Northern Ireland) 1975*

2. Paragraph (a) of regulation 4 of the Social Security (Industrial Injuries) (Airmen's Benefits) Regulations (Northern Ireland) 1975(f) is hereby revoked.

*Amendment of the Social Security (Industrial Injuries) (Mariners' Benefits) Regulations (Northern Ireland) 1975*

3.—(1) The Social Security (Industrial Injuries) (Mariners' Benefits) Regulations (Northern Ireland) 1975(g) shall be amended in accordance with the provisions of this regulation.

(2) Paragraph (d) of regulation 3 and paragraph (a) of regulation 5 are hereby revoked.

(a) 1975 c. 15: section 15(6) was inserted by Article 38 of, and paragraph 6 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)) and section 50A was inserted by Article 32(4) of that Order

(b) S.I. 1977/610 (N.I. 11)

(c) S.I. 1982/1084 (N.I. 16)

(d) 1980 c. 30

(e) 1978 c. 30

(f) S.R. 1975 No. 99

(g) S.R. 1975 No. 106

(3) There shall be omitted from paragraph 4 of the Schedule “, 3(d)”.

*Amendment of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975*

4. The Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(a) shall be amended by the omission of “injury benefit” from Schedule 2.

*Amendment of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975*

5. The Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(b) shall be amended by the omission of “injury benefit or” from regulation 14(1)(b)(ii).

*Amendment of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976*

6.—(1) The Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(c) shall be amended in accordance with the provisions of this regulation.

(2) From the heading to Parts III and IV there shall be omitted “INJURY AND”.

(3) Regulations 3 to 5 are hereby revoked.

(4) In regulation 9(1), there shall be substituted for “the injury benefit period”, in the first place where it occurs “the period of 90 days referred to in section 57(4)”, and in the second place where it occurs “that period of 90 days”.

(5) From regulation 39(1) there shall be omitted “(other than injury benefit)”.

(6) Regulation 40(1) and (5)(a) is hereby revoked.

(7) From regulation 40(2)(c), there shall be omitted “injury benefit or” in both places where it occurs.

(8) In regulation 40(7) for “paragraphs (1) to (6)” there shall be substituted “paragraphs (2) to (6)”.

*Amendment of the Social Security (Child Benefit Consequential) Regulations (Northern Ireland) 1977*

7. Regulation 7(3) of the Social Security (Child Benefit Consequential) Regulations (Northern Ireland) 1977(d) is hereby revoked.

*Amendment of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977*

8.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(e) shall be amended in accordance with the provisions of this regulation.

(2) From regulation 9(2)(d)(ii) there shall be omitted “, injury benefit”.

(3) From regulation 10(1) there shall be omitted “of injury benefit or”.

(4) From regulation 10(3) there shall be omitted “, injury benefit”.

(5) In regulation 11(2) for “, sickness benefit or injury benefit” there shall be substituted “or sickness benefit” and “or section 66(1)(a)” and “or section 66(1)(d)” shall be omitted.

(a) S.R. 1975 No. 109; the relevant amending regulations are S.R. 1975 No. 202

(b) S.R. 1975 No. 280, to which there are amendments not relevant to these regulations

(c) S.R. 1976 No. 42; the relevant amending regulations are S.R. 1977 No. 73 and S.R. 1980 No. 384

(d) S.R. 1977 No. 73, to which there are amendments not relevant to these regulations

(e) S.R. 1977 No. 74, to which there are amendments not relevant to these regulations

*Amendment of the Social Security Benefit (Persons Residing Together) Regulations (Northern Ireland) 1977*

9. For paragraph (2) of regulation 2 of the Social Security Benefit (Persons Residing Together) Regulations (Northern Ireland) 1977(a) there shall be substituted the following paragraph—

“(2) In relation to—

- (a) an increase in respect of an adult dependant under section 44 (increase of unemployment benefit or sickness benefit or of a maternity allowance), 45 (increase of Category A or Category C retirement pension or invalidity pension), 49 (increase of non-contributory invalidity pension or invalid care allowance) or 66 (increase of a disablement pension where the beneficiary is entitled to unemployability supplement); or
- (b) an adjustment of benefit under section 85(1)(b) (hospital in-patients), two spouses shall not be treated as having ceased to reside together by reason only of the fact that either of them is, or they both are, undergoing medical or other treatment as an in-patient in a hospital or similar institution, whether such absence is temporary or not.”.

*Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977*

10.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(b) shall be amended in accordance with the provisions of this regulation.

(2) In the heading to regulation 11, for “, *invalidity and injury*” there shall be substituted “*and invalidity*”.

(3) In regulation 11(1)(a), for “, *invalidity or injury*” there shall be substituted “*or invalidity*”.

(4) Sub-paragraph (f) of regulation 15(1) is hereby revoked.

(5) From regulation 16(1)(g) there shall be omitted “*not being injury benefit*”.

(6) From the heading to regulation 26 there shall be omitted “*injury benefit or*”.

(7) From regulation 26(1) there shall be omitted “*injury benefit or*”.

(8) Regulation 27 is hereby revoked.

(9) In Schedule 1, there shall be omitted from paragraph 3 “, *injury benefit*” (where it first occurs) and “*or injury*” (in both places where it occurs), and from paragraph 4 there shall be omitted “*injury benefit*”.

(10) In Schedule 2—

(a) from the general heading there shall be omitted “*injury benefit*”;

(b) in the heading to paragraph 2, for “, *INVALIDITY AND INJURY*” there shall be substituted “*AND INVALIDITY*”; and

(c) in paragraphs 2(1) and 2A for “, *invalidity or injury*” there shall be substituted “*or invalidity*”.

(11) In Schedule 3—

(a) there shall be omitted “, *injury benefit*” (in the first 3 places where it occurs);

(b) for “, *invalidity benefit or injury*” there shall be substituted “*or invalidity*”;

(c) there shall be omitted “*of injury benefit or*”;

(d) the items “*An increase of injury benefit*” and “*Injury benefit*” in column (1) and the items set opposite them in column (2) shall be omitted; and

(a) S.R. 1977 No. 166

(b) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1978 No. 90 and S.R. 1982 No. 318

- (e) for “; invalidity pension or injury benefit” there shall be substituted “or invalidity pension”.

*Amendment of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978*

11.—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(a) shall be amended in accordance with the provisions of this regulation.

(2) For paragraph (1) of regulation 2 there shall be substituted the following paragraph—

“(1) A person shall not be disqualified for receiving sickness benefit, invalidity benefit, non-contributory invalidity pension, an unemployability supplement or a maternity allowance by reason of being temporarily absent from Northern Ireland for any day if the Department has certified that it is consistent with the proper administration of the Act that, subject to the satisfaction of one of the conditions in sub-paragraphs (a), (b) and (c) below, the disqualification under section 82(5)(a) of the Act should not apply, and—

- (a) the absence is for the specific purpose of being treated for incapacity which commenced before he left Northern Ireland; or
- (b) in the case only of sickness benefit, the incapacity for work is the result of a personal injury of a kind mentioned in section 50(1) of the Act, and the absence is for the specific purpose of receiving treatment which is appropriate to that injury; or
- (c) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work and on the day for which benefit is claimed he has remained continuously so incapable since the absence began.”

(3) From the heading to regulation 9 there shall be omitted “injury benefit and”.

(4) Regulation 9(1) is hereby revoked.

*Amendment of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979*

12.—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(b) shall be amended in accordance with the provisions of this regulation.

(2) Sub-paragraph (c) of regulation 10(1) is hereby revoked.

(3) From Schedule 1 there shall be omitted—

- (a) in paragraphs 1, 3 and 4, “Injury benefit.”;
- (b) in paragraph 2, “Injury benefit and”; and
- (c) paragraph 7.

*Amendment of the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1979*

13. The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1979(c) shall be amended by the substitution, in regulation 2, for “; invalidity and injury” of “and invalidity”.

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(a) S.R. 1978 No. 114, to which there are amendments not relevant to these regulations  
 (b) S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451  
 (c) S.R. 1979 No. 259

*Amendment of the Social Security (Industrial Injuries) (Benefit) (Amendment) Regulations (Northern Ireland) 1980*

14. Regulation 2(2) of the Social Security (Industrial Injuries) (Benefit) (Amendment) Regulations (Northern Ireland) 1980(a) is hereby revoked.

*Sickness benefit in respect of industrial injury – persons over pensionable age*

15.—(1) This regulation applies in the case of a person who—

- (a) is entitled, by virtue of section 50A of the Act, to sickness benefit under section 14(2)(b) of the Act; and
- (b) is not also entitled to sickness benefit under section 14(2)(c) of the Act.

(2) In a case to which this regulation applies, the weekly rate at which sickness benefit is payable shall be the rate set out in paragraph 1 of Part I of Schedule 4 to the Act, or, if higher, the rate at which, apart from this regulation, that benefit would be payable to the person concerned under section 14(6) of the Act.

*Invalidity pension in respect of industrial injury – persons over pensionable age*

16.—(1) In any case where—

- (a) an employed earner is incapable of work as a result of a personal injury of a kind mentioned in section 50(1) of the Act;
- (b) he has ceased to be entitled to sickness benefit under the provisions of section 15(1)(a) of the Act;
- (c) he is over pensionable age and has not retired from regular employment; and
- (d) the contribution conditions are not satisfied in respect of him,

those conditions shall be taken to be satisfied for the purposes of section 15(1)(b)(ii) and (2) of the Act.

(2) In paragraph (1) “contribution conditions” means the contribution conditions for a Category A retirement pension specified in paragraph 5 of Part I of Schedule 3 to the Act.

(3) In the case of a person who is entitled, by virtue of paragraph (1), to an invalidity pension under section 15(2)(a) of the Act, and is not also entitled to an invalidity pension under section 15(2)(b), the weekly rate at which the invalidity pension is payable shall be the rate referred to in section 15(3) (notwithstanding that the person is over pensionable age), or, if higher, the rate at which, apart from this regulation, an invalidity pension would be payable to him under section 15(4).

*Invalidity pension – restriction on entitlement*

17. Where a person has been entitled to sickness benefit in respect of any day in a period of interruption of employment and would not have been so entitled but for the provisions of section 50A of the Act, he shall not be entitled to an invalidity pension in respect of any day in the same period of interruption of employment unless he is incapable of work on the last-mentioned day as a result of a personal injury of a kind mentioned in section 50(1) of the Act.

*Claims for injury benefit for days before 6th April 1983*

18. In relation to any claim for injury benefit for a day falling before 6th April 1983—

- (a) the Act shall be deemed to have effect as if the following provisions of the Order had not come into operation, namely—
  - (i) paragraph 10(2) of Schedule 4,

- (ii) Article 38 so far as it relates to that paragraph,
  - (iii) the repeals, specified in Schedule 5, affecting sections 81, 89 and 90 of the Act, and
  - (iv) Article 39 so far as it relates to those repeals; and
- (b) the amendments of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 made by regulation 10 of these regulations, and the amendments of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976 made by regulation 6(5) to (8) of these regulations, shall be deemed not to have come into effect.

*Injury benefit for days after 5th April 1983 in transitional cases*

**19.**—(1) This regulation applies to a case where—

(a) a person either—

- (i) suffers personal injury caused by an accident such as is mentioned in section 50(1) of the Act which occurred before 6th April 1983, or
  - (ii) suffers from a disease prescribed under Part II of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1983(a) which is treated under those regulations as having developed before 6th April 1983;
- (b) he is incapable of work on any day (“the said day”) falling after 5th April 1983 as a result of that injury or that disease;
- (c) the said day is part of a period of interruption of employment which began before 6th April 1983; and
- (d) the said day is one for which—
- (i) he would have been entitled to injury benefit had it fallen before 6th April 1983, and
  - (ii) he is not precluded from being entitled to injury benefit by regulation 3(5) of the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1983(b).

(2) In a case to which this regulation applies, the person in question shall be entitled to injury benefit for the said day, notwithstanding the coming into operation of Article 32(1) of the Order, and shall in no circumstances be entitled to disablement benefit for that day.

(3) In relation to any claim for injury benefit made in a case to which this regulation applies—

(a) the Act shall be deemed to have effect as if the following provisions of the Order had not come into operation, namely—

- (i) Article 32(1) to (4),
  - (ii) paragraphs 8, 9, 10(2), 11 and 12 of Schedule 4,
  - (iii) Article 38 so far as it relates to those paragraphs,
  - (iv) the repeals, specified in Schedule 5, affecting sections 50, 56, 64 to 66, 77, 81, 87 and 89 to 92 of, and Schedule 4 to, the Act, and
  - (v) Article 39 so far as it relates to those repeals; and
- (b) the amendments made and revocations brought about by regulations 2 to 14 of these regulations and regulation 2 of the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1983 shall be deemed not to have come into effect.

(a) S.R. 1983 No. 19

(b) S.R. 1983 No. 37

*Claims for disablement benefit for days before 6th April 1983*

20. In relation to any claim made before, on or after 6th April 1983 for disablement benefit for a day falling before 6th April 1983—

- (a) the Act shall be deemed to have effect as if the following provisions of the Order had not come into operation, namely—
  - (i) Article 32(2),
  - (ii) paragraphs 9 and 12 of Schedule 4;
- (b) the amendments of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976 made by regulation 6(4) of these regulations shall be deemed not to have come into effect.

*Disablement benefit for days after 5th April 1983 in transitional cases*

21. In relation to any claim made before, on or after 6th April 1983 for disablement benefit in respect of a personal injury caused by an accident such as is mentioned in section 50(1) of the Act which occurred before 6th April 1983 the Act shall be deemed to have effect as if Article 32(2) of, and paragraphs 9 and 12 of Schedule 4 to, the Order had not come into operation.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th March 1983.

(L.S.)

A. N. Burns

Assistant Secretary

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#### EXPLANATORY NOTE

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

These regulations contain provisions which are consequential upon the abolition of injury benefit by Article 32(1) of the Social Security (Northern Ireland) Order 1982 and the provision of sickness benefit in respect of industrial injury by section 50A of the Social Security (Northern Ireland) Act 1975, which was inserted by Article 32(4) of that Order.

Regulations 2 to 14 make consequential amendments to provisions of other regulations. Regulation 15 determines the rate at which sickness benefit is payable to persons over pensionable age who are incapable of work as a result of an industrial injury and do not satisfy the contribution conditions for that benefit. Regulation 16 makes provision for the payment of invalidity pension to persons over pensionable age in similar circumstances and determines the rate at which that benefit is payable; regulation 17 restricts the payment of invalidity pension in certain cases; and regulations 18 to 21 contain transitional provisions relating to claims for injury benefit and disablement benefit.