1987 No. 142

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Reduced Earnings Allowance and Transitional) Regulations (Northern Ireland) 1987

Made . . . . . *26th March 1987*

Coming into operation . . *6th April 1987*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 59A(10) of the Social Security (Northern Ireland) Act 1975(**a**) and Article 84(1) of the Social Security (Northern Ireland) Order 1986(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Reduced Earnings Allowance and Transitional) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(2) In these regulations—

"the Act" means the Social Security (Northern Ireland) Act 1975;

"the Order" means the Social Security (Northern Ireland) Order 1986.

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

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

PART II

REDUCED EARNINGS ALLOWANCE

Determination of the probable standard of remuneration

2.—(1) On any award of reduced earnings allowance except the first award made in respect of a relevant accident or a disease prescribed in

(a) 1975 c. 15; section 59A was inserted by paragraph 5(1) of Schedule 3 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))
(b) S.I. 1986/1888 (N.I. 18)
(c) 1978 c. 30

accordance with Chapter V of Part II of the Act, a person's probable standard of remuneration shall be determined in accordance with paragraphs (2) to (8) or, if applicable, regulation 3.

(2) On the second award made in respect of an accident or disease, a person's probable standard of remuneration in any employment shall be determined in the same manner as on the first award.

(3) On a third or subsequent award made in respect of an accident or disease, a person's probable standard of remuneration in any employment shall be determined—

(*a*) if applicable, in accordance with paragraphs (4) to (8) or with regulation 3; or

(*b*) otherwise in the same manner as on the first award.

(4) Where at the time of the award a person's regular occupation has ceased to exist, his probable standard of remuneration in the regular occupation shall be determined in accordance with paragraph (6).

(5) Where at the time of the award either—

(*a*) a person is not employed; or

(*b*) he is employed but the employment is not suitable in his case; and

(*c*) there has been no relevant change of circumstances since the last previous award,

the probable standard of remuneration in any employed earner's employment which is suitable in his case and which he is likely to be capable of following shall be determined in accordance with paragraph (6).

(6) For the purposes of paragraphs (4) and (5) a person's probable standard of remuneration shall be determined by reference to the standard determined for the purposes of the last previous award of reduced earnings allowance increased by a percentage equal to any percentage increase in the level of earnings for the relevant occupational groups.

(7) For the purposes of paragraph (6) and regulation 3(1)—

(*a*) the relevant occupational group is the numbered group specified in data relating to earnings published from time to time by the Department of Economic Development which is the nearest to, respectively,

(i) the person's regular occupation,

(ii) any employed earner's employments which are suitable in his case and which he is likely to be capable of following; and

(*b*) the percentage increase in the level of earnings shall be determined by reference to the movement in average gross weekly earnings of full-time employees on adult rates in the relevant occupational group where pay was not affected by absence; and

(*c*) a percentage increase for any year shall be applied to a determination of the probable standard of remuneration on an award made for a period commencing on or after the first Wednesday in the February of the year following the year to which the increase relates.

(8) For the purposes of paragraph (4), a person's regular occupation has ceased to exist where—

(*a*) his former employer has ceased to trade in the locality; or

(*b*) the work the person did at his former place of employment no longer exists or has changed to such a degree that the work amounts to a different occupation,

and there is in the person's locality no employer providing work similar to that in which he was engaged.

Awards at the maximum rate

3.—(1) Where on the second or subsequent award of reduced earnings allowance in respect of an accident or disease the award—

(*a*) is made at the maximum rate payable under section 59A(8) of the Act; or

(*b*) would have been made at that rate but for paragraph 5(3) of Schedule 3 to the Order or regulation 8,

then, but subject to paragraph (2), on any award thereafter the probable standard of a person's remuneration in any employment shall be determined as being the same standard as that determined for the purpose of the last previous award of reduced earnings allowance increased by a percentage equal to any percentage increase in the level of earnings for the relevant occupational groups.

(2) This regulation does not apply where—

(*a*) on an award, reduced earnings allowance would be payable at a rate below the maximum rate payable under section 59A(8) of the Act otherwise than by virtue of paragraph 5(3) of Schedule 3 to the Order or regulation 8; or

(*b*) there has been a relevant change in the person's circumstances since the last previous award.

Awards following relevant change of circumstances

4. An award of reduced earnings allowance following a relevant change of circumstances shall be treated for the purpose of this Part of these regulations as the first such award.

PART III

TRANSITIONAL

Claims before 6th April 1987

5. Regulations 2 and 3 shall not apply to any award of reduced earnings allowance where the claim which resulted in that award was made before 6th April 1987.

Awards for special hardship made before 19th November 1986

6. Any award made before 19th November 1986 of an increase in disablement pension under section 60 of the Act (increase of disablement pension for special hardship) shall be treated for the purposes of regulations 2 and 3 as an award of reduced earnings allowance.