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:

(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—

(**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.