1983 No. 37

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) 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 76, 77 and 113 of the Social Security (Northern Ireland) Act 1975(a) and Article 32(5) of the Social Security (Northern Ireland) Order 1982(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1983 and shall come into operation on 6th April 1983.

(2) These regulations shall be read as one with the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1983(c), hereafter referred to as "the principal regulations".

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

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) In the headings to Part III and to regulation 6 for "Date of development" there shall be substituted "Date of onset" and in regulations 5, 6, 8, 9(*a*), 11(2), 15, 16(2), 22(2) and 36(*b*) and paragraph 1 of Schedule 2 for "date of development" in each place where it occurs there shall be substituted "date of onset".

(3) For regulation 6(2)(*a*) there shall be substituted—

"(*a*) a claim for sickness benefit made by virtue of section 50A(e) by a person to whom regulation 8(1) applies (except in respect of pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness or occupational asthma) the date of onset shall be the first day on which the claimant was incapable of work as the result of the disease on or after 5th July 1948;".

(4) In regulation 6(2)(*b*) for "or, if later, the date as from which benefit could be paid on that claim" there shall be substituted "and the date of onset so determined shall be the date of onset for the purposes of a claim for sickness benefit made by virtue of section 50A in respect of pneumoconiosis, byssinosis, diffuse mesothelioma or occupational asthma".

(5) Regulation 6(3) is hereby revoked.

(6) For regulation 7 there shall be substituted the following regulation—

(a) 1975 c. 15
(b) S.I. 1982/1084 (N.I. 16)
(c) S.R. 1983 No. 19
(d) 1978 c. 30
(e) Section 50A was inserted by Article 32(4) of the Social Security (Northern Ireland) Order 1982

"*Recrudescence*

7.—(1) If a person after having been awarded benefit in respect of a prescribed disease other than pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness or occupational asthma suffers from another attack of the same disease, or dies as a result thereof, then—

(*a*) if the further attack commences or the death occurs during a period taken into account by an assessment of disablement relating to such a previous award (which period is in this regulation referred to as a 'relevant period') the disease shall be treated as a recrudescence of the attack to which the relevant period relates, unless it is otherwise determined in the manner referred to in sub-paragraph (*b*) of this paragraph;

(*b*) if the further attack commences or the death occurs otherwise than during a relevant period, or if it is determined in the manner provided in Part V of these regulations that the disease was in fact contracted afresh, it shall be treated as having been so contracted.

(2) For the purposes of paragraph (1), a further attack of a prescribed disease shall be deemed to have commenced on the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of that further attack.

(3) Where, under the foregoing provisions of this regulation, a disease is treated as having been contracted afresh, the date of onset of the disease in relation to the fresh contraction shall be the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of the further attack, or in the event of his death, the date of death.

(4) Where, under the provisions aforesaid, a disease is treated as a recrudescence, any assessment of disablement in respect of the recrudescence during a period taken into account by a previous assessment of disablement shall be by way of review of the assessment relating to the relevant period, and the review shall be subject to the provisions of regulation 29.

(5) This regulation shall not apply in relation to a claim for sickness benefit made by virtue of section 50A except where such a claim is made by a person to whom regulation 8(1) applies.".

(7) In regulation 10 after "industrial injuries benefit" there shall be inserted "and sickness benefit by virtue of section 50A".

(8) Regulations 13 and 14 are hereby revoked.

(9) In regulation 17, for "date on which it is treated as having developed under regulation 6" there shall be substituted "first day for which he is or has been awarded disablement benefit in respect of that disease", and the words after "section 60" (in the second place where it occurs) shall be omitted.

(10) In regulation 23(1) for "injury benefit" there shall be substituted "sickness benefit by virtue of section 50A".

(11) Regulation 32 is hereby revoked.

(12) In regulation 38(2) after "Disablement benefit" there shall be inserted "or sickness benefit by virtue of section 50A".

(13) After regulation 38 there shall be inserted the following regulation—

"*Claims in respect of occupational deafness*

38A. Where it appears that a person who has made a claim for sickness benefit by virtue of section 50A in respect of occupational deafness—

(*a*) may be entitled to disablement benefit; and