1977 No. 287

WORKMEN'S COMPENSATION

The Workmen's Compensation (Supplementation) (Amendment No. 2) Regulations (Northern Ireland) 1977

Made . . . . . *5th October* 1977

Coming into operation . . . *16th November* 1977

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 2 and 4(1) of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975(a), and of all other powers enabling it in that behalf, and with the consent of the Department of Finance for Northern Ireland, hereby makes, in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 1977(b), the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Workmen's Compensation (Supplementation) (Amendment No. 2) Regulations (Northern Ireland) 1977, shall be read as one with the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966(c) (hereinafter referred to as "the principal regulations"), as amended(d), and shall come into operation on 16th November 1977.

(2) In these regulations—

"the operative date" means 16th November 1977.

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

Amendment of regulation 5 of the principal regulations

2.—(1) Regulation 5 of the principal regulations (lesser incapacity allowance) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (1) there shall be inserted the following paragraph:

"(1A) In any case where the lesser incapacity allowance awarded to a beneficiary was, immediately before 16th November 1977, 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 regulation 5(2)—

(*a*) at the beginning of the paragraph there shall be inserted "In a case to which regulation 5(1A) does not apply";

(a) 1975 c. 17
(b) S.R. 1977 No. 246
(c) S.R. & O. (N.I.) 1966 No. 105 (p. 322)
(d) The relevant amending regulations are S.R. & O. (N.I.) 1970 No. 15 (p. 40), S.R. 1976 No. 272 and 1977 No. 273
(e) 1954 c. 33 (N.I.)

(*b*) after "the first column of" there shall be inserted "Part II of";

(*c*) for "that Schedule" there shall be substituted "that Part".

Substitution of Schedule 1 to the principal regulations

3. For Schedule 1 to the principal regulations (table of loss of earnings and corresponding rate of lesser incapacity allowance) there shall be substituted the Schedule set out in the Schedule to these regulations.

Transitional provision relating to amount of allowance payable

4.—(1) Paragraph (2) shall apply to a beneficiary who was, before the operative date, in receipt of lesser incapacity allowance but in respect of whom the final calculation of earnings required by regulation 7(1A) of the principal regulations 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 the operative date to an allowance at the rate to which he would have been entitled had the final calculation been made before the operative date.

Transitional provision relating to claims not made before the operative date

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

(2) Any lesser incapacity allowance which is found to be payable to such a person as aforesaid in respect of a period before the operative date shall—

(*a*) in so far as it relates to the period from and including 15th November 1976 to 15th November 1977, be paid at the rate shown in the first column of Part I of Schedule 1 to the principal regulations which corresponds to the rate awarded to him for the period after the operative date; and

(*b*) in so far as it relates to a period before 15th November 1976, be paid at the rate or rates then in force which corresponds or correspond to the rate awarded to him for the period after the operative date.

Transitional provision relating to claims made but not determined before the operative date

6.—(1) Paragraph (2) shall apply to a person whose claim for lesser incapacity allowance was made but not determined before the operative date.

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

Transitional provision relating to review and appeal

7. Where a lesser incapacity allowance has been awarded to a person under the principal regulations before 16th November 1977 and a question arises as to the weekly rate of allowance payable in consequence of these regulations, the case shall be reviewed by the insurance officer in the light of amendments made by these regulations and the allowance shall continue to be payable at the weekly rate specified in the award until the question shall have been determined in accordance with the provisions of the principal regulations.