1977 No. 273

SOCIAL SECURITY

The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977

Made	*1st September* 1977
Coming into operation . . .	*17th October* 1977

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 2 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 the following regulations:

Citation, interpretation and commencement

1.—(1) These regulations, which may be cited as the Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977, shall be read as one with the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966(**b**), as amended(**c**), (hereinafter referred to as "the principal regulations") and shall come into operation on 17th October 1977.

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

Amendment of regulation 1(3) *of the principal regulations*

2. In regulation 1(3) of the principal regulations (interpretation)—

(*a*) for the definition of "the determining authority" there shall be substituted the following definition:

" 'the determining authority' means an insurance officer, or, as the case may be, a local tribunal or Commissioner within the meaning of section 97 of the Social Security Act;";

(*b*) there shall be added the following definitions:

(i) after the definition of "the Act"—

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

(ii) after the definition of "the determining authority"—

" 'the insurance officer' means an insurance officer appointed under section 97(1) of the Social Security Act;".

Additions to the principal regulations

3. At the beginning of Part III of the principal regulations there shall be inserted the following regulations:

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

"Application of certain regulations made under the Social Security Act

10A.—Subject to regulations 14 and 15, the provisions of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1975(**f**) and the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(**g**) which are specified in Schedule 2 shall, with the necessary modifications, apply for the purposes of these regulations.

Determination of questions arising under the regulations

10B.—Any question relating to any allowance under these regulations shall be determined as if it had arisen under the Social Security Act and, except where these regulations otherwise provide, the provisions of the Social Security Act and of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(**h**) which are specified in Schedule 2 shall, with the necessary modifications, apply for the purposes of these regulations.".

Amendment of regulation 11 *of the principal regulations*

4. For regulation 11 of the principal regulations (procedure on determination of claims and questions) there shall be substituted the following regulation:

"Finality of decisions

11. Except as provided by regulation 26A, any decision given by the Department or the Commissioner, as the case may be, on a claim or question under provisions of these regulations in force immediately before the Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977(**i**) came into operation or under any scheme made under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951(**j**) in force immediately before 23rd May 1966 shall be final for the purposes of these regulations.".

Amendment of regulation 14 *of the principal regulations*

5. For regulation 14 of the principal regulations (obligation to undergo medical examination) there shall be substituted the following regulation:

"**14.**—(1) Subject to the following provisions of this regulation, every claimant for, and every beneficiary in receipt of, an allowance shall comply with every notice given to him by the Department which requires him to submit himself to a medical examination by a medical practitioner nominated by the Department.

(2) Every notice given to a claimant or beneficiary requiring him to submit himself to medical examination shall be given in writing and shall specify the time and place of examination but shall not require the claimant or beneficiary to submit himself to examination on a date earlier than the third day after the date on which the notice was sent.

(3) Every claimant and every beneficiary who, in accordance with the foregoing provisions of this regulation, is required to submit himself to a medical examination shall attend at every such place and at every such time as may be required.".

(**f**) S.R. 1975 No. 104 (I, p. 641)
(**g**) S.R. 1976 No. 42
(**h**) S.R. 1975 No. 100 (I, p. 597)
(**i**) S.R. 1977 No. 273
(**j**) 1951 c. 16 (N.I.)

Amendment of regulation 21 of the principal regulations

6. For regulation 21 of the principal regulations (allowances during imprisonment) there shall be substituted the following regulation:

"**21.** Where a person has become entitled, in respect of a period, or any part of a period, during which he is and has continuously been undergoing imprisonment or detention in legal custody, to sums by way of allowance which, in the aggregate, equal the total amount payable by way of an allowance for a period of one year, that person shall be disqualified from receiving any further sums by way of allowance in respect of such period, or any part thereof.".

Addition of transitional provision to principal regulations

7. After regulation 26 of the principal regulations there shall be inserted the following regulation:

"Transitional provisions relating to review

26A.—(1) The insurance officer may at any time and from time to time review any decision given under the provisions of these regulations in force before 17th October 1977 if—

(*a*) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or

(*b*) there has been any relevant change of circumstances since the decision was given.

(2) The claimant or the Department may raise a question with a view to the review of any decision given under the provisions of these regulations in force before 17th October 1977 by application in writing to the insurance officer stating the grounds of the application.

(3) Where it appears to the Department that a question has arisen whether the award of an allowance to which this regulation relates ought to be revised in accordance with the provisions of paragraph (1), it may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if it does so it shall forthwith refer the question to the insurance officer for determination in accordance with the provisions of this regulation.

(4) Any question arising in connection with a review to which this regulation applies shall be determined and, if appropriate, the decision shall be revised and an allowance awarded or paid in accordance with the provisions in force when the original decision was given.

(5) Where on a review to which this regulation applies a decision is revised so as to make an allowance payable or to increase the rate of an allowance, the decision given on review shall, subject to the next succeeding paragraph, have effect from the date of the application for the review or from such earlier date as appears to the determining authority to be reasonable in the circumstances.

(6) Benefit shall not, by virtue of the last preceding paragraph, become payable from a date earlier than the earliest date from which it could have been payable had it been awarded in the decision being reviewed.

(7) A decision given on review under this regulation, and a refusal to review a decision thereunder shall be subject to appeal to the local tribunal and the Commissioner on the grounds set out in sub-paragraphs (*a*) and (*b*) of paragraph (1).

(8) Where a decision is revised on review under this regulation, the decision given on review shall, subject to the provisions of the next succeeding paragraph, require repayment to the National Insurance Fund of any sums paid by way of an allowance in pursuance of the original decision to the extent to which they would not have been payable if the decision on the review had been given in the first instance.

(9) Notwithstanding the provision of the last preceding paragraph, repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this regulation in any case where it is shown to the satisfaction of the determining authority that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(10) For the purposes of this regulation a decision given under any scheme made under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951 shall be treated as if it were a decision given under these regulations as they were immediately before the Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977 came into operation.

(11) On the review of a decision given under any scheme made under the said Act of 1951 in force before 23rd May 1966, a decision given by an insurance officer on any question referred to him for determination under any such scheme may be reviewed by such an insurance officer in accordance with the provisions of that scheme.".

Amendment of the principal regulations consequential on changes in adjudication procedure

8. The principal regulations shall be amended in accordance with the following provisions of this regulation:—

(*a*) in regulation 3(2), in the proviso to regulation 5(3) and in regulation 7(2)(*b*) "to the satisfaction of the determining authority" shall be omitted;

(*b*) regulations 12, 16, 20, 23 and 24 shall be revoked;

(*c*) in proviso (*c*) to regulation 6(1) there shall be omitted "the determining authority is satisfied that", ", in the opinion of the determining authority," and "the determining authority may determine";

(*d*) in regulation 6(4) "decided by the determining authority to be" shall be omitted;

(*e*) in regulation 7(2)(*a*) for "the determining authority shall take the standard of remuneration to be such as appears to it to be appropriate" there shall be substituted "the standard of remuneration shall be taken to be such as is appropriate";

(*f*) in regulation 7(2)(*d*) for "the determining authority may determine the amount which represents a person's weekly loss of earnings under paragraph (1)" there shall be substituted "the amount which represents a person's weekly loss of earnings under paragraph (1) may be determined";

(*g*) in regulation 15 for "the determining authority may determine that the allowance shall be payable from such earlier date as it may consider reasonable" there shall be substituted "the allowance shall be payable from such earlier date as is reasonable";

(*h*) in regulation 17 for "allowance or part" there shall be substituted "allowance or part of an allowance";