1976 No. 272

SOCIAL SECURITY

The Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1976

Made . . . . . 10*th September* 1976

Coming into operation . . . 15*th November* 1976

The Department of Health and Social Services for Northern Ireland, with the consent of the Department of Finance 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, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Workmen's Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1976, shall be read as one with the Workmen's Compensation (Supplementation) Regulations (Northern Ireland) 1966(**b**) (hereinafter referred to as "the principal regulations") and shall come into operation on 15th November 1976.

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

Amendment of regulation 7 of the principal regulations

2. In regulation 7(1) of the principal regulations (computation of loss of earnings)—

(*a*) for "18th January 1975" there shall be substituted "the day on which that person makes a claim for an allowance";

(*b*) for the proviso there shall be substituted the following paragraphs—

"(1A) Where the amount representing a person's loss of earnings has been ascertained in accordance with paragraph (1) and the period taken into account for that purpose was three months or less, a final calculation of that person's loss of earnings shall be made six months after the date on which the claim was made for the purpose of comparing the standard of remuneration obtaining during that later period in the class of employment in which he was employed at the time when the accident happened or the disease developed with the amount which he was earning or able to earn during the said period in some suitable employment or business.

(1B) In assessing, in relation to any person, the standard of remuneration in any class of employment, regard shall be had to that person's reasonable prospects of advancement and the class of employment in which he was employed at the time when the accident happened shall

(**a**) 1975 c. 17

(**b**) S.R. & O. (N.I.) 1966 No. 105 (p. 322) as amended by S.R. & O. (N.I.) 1967 No. 265 (p. 942); 1969 No. 236 (p. 1056); 1970 No. 15 (p. 40); 1971 No. 245 (p. 1205); 1972 No. 208 (p. 1126); 1973 No. 291 (I, p. 1542); S.R. 1974 No. 136 (I, p. 474) and S.R. 1975 Nos. 61 and 221 (I, p. 366 and II, p. 1098)

(**c**) 1954 c. 33 (N.I.)

be treated, for this purpose, as extending to and including employment in the capacities to which persons so employed are, in the normal course, advanced and to which, if he had continued to be so employed, without the accident having happened, he would have had at least the normal prospects of advancement.

(1C) Notwithstanding the provisions of paragraphs (1) and (1A), in any case where lesser incapacity allowance is in payment to a person before 15th November 1976, and that allowance is based on a computation of the loss of earnings, due to the relevant injury or disease, at a certain amount, that amount shall continue to represent that person's loss of earnings for the purposes of these regulations.".

Substitution of regulation 10 *of the principal regulations*

3. For regulation 10(*a*)(iii) of the principal regulations (allowances in respect of two or more different injuries or diseases) there shall be substituted the following:

"(iii) he shall not for the same period be entitled to receive two or more lesser incapacity allowances at an aggregate weekly rate which exceeds £9·20 or such higher amount as may, for the time being, be specified by section 2(6)(*c*) of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975.".

Substitution of Schedule 1 *to the principal regulations*

4. 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 Schedule 1.

Revocations

5. The regulations specified in column (1) of Schedule 2 are hereby revoked to the extent mentioned in column (3) of that Schedule.

Transitional provision relating to determination of claims

6. Notwithstanding the revocation of regulation 22 of the principal regulations by regulation 5 and Schedule 1 to these regulations where a claim for an allowance—

(*a*) has been made before the date on which regulation 5 comes into operation; and

(*b*) the question prescribed in regulation 22 of the principal regulations (determination of amount of the claimant's workmen's compensation or loss of earnings) has not been determined by that date; and

(*c*) but for the coming into operation of the last foregoing regulation of these regulations, the said regulation 22 would have applied for the purpose of the determination of that question;

that question shall be determined as though the said regulation 22 had not been revoked.

Transitional provision relating to rate of allowance

7. Where a lesser incapacity allowance has been awarded to a person under the principal regulations before 15th November 1976 and a question arises as to the weekly rate of that allowance payable in consequence of these regulations, the case shall be reviewed by the Department in the light of the 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.