1970. No. 273 [C]

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

Benefit

REGULATIONS, DATED 26TH OCTOBER 1970, MADE BY THE INDUSTRIAL INJURIES JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACTS (NORTHERN IRELAND) 1966 TO 1969.

The Industrial Injuries Joint Authority, in exercise of powers conferred by paragraphs 1(*d*) and 2 of Schedule 4 to the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services, in exercise of powers conferred by section 31(1) and paragraph 1(*aa*) of Schedule 4 to that Act and of all other powers enabling them in that behalf, hereby make the following regulations being regulations subject to negative resolution in accordance with section 80(2) of the said Act:

Citation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1970, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1969(**b**) (hereinafter referred to as "the principal regulations") and shall come into operation on 28th October 1970.

Regulation substituted for regulation 2 of the principal regulations

2. For the heading of regulation 2 of the principal regulations and for that regulation there shall be substituted respectively the following heading and regulation:

"*Further definition of the principles of assessment of disablement and prescribed degrees of disablement*

2.—(1) Schedule 4 (general principles relating to the assessment of the extent of disablement) to the Act shall have effect subject to the provisions of this regulation.

(2) In assessing the extent of disablement for the purposes of section 12 of the Act, any disabilities which, though resulting from the relevant loss of faculty, also result, or without the relevant accident might have been expected to result, from a cause other than the relevant accident (hereafter in this regulation referred to as 'the other effective cause') shall only be taken into account subject to and in accordance with the following provisions of this regulation.

(3) Any assessment of the extent of disablement made by reference to any disability to which paragraph (2) applies, in a case where the other effective cause is a congenital defect or is an injury or disease received or contracted before the relevant accident, shall take account of all such disablement except to the extent to which the claimant would have been subject thereto during the period taken into account by the assessment if the relevant accident had not occurred.

(a) 1966. c. 9 (N.I.). (b) S.R. & O. (N.I.) 1969, No. 8.

(4) Any assessment of the extent of disablement made by reference to any disability to which paragraph (2) applies, in a case where the other effective cause is an injury or disease received or contracted after and not directly attributable to the relevant accident, shall take account of all such disablement to the extent to which the claimant would have been subject thereto during the period taken into account by the assessment if that other effective cause had not arisen and where, in any such case, the extent of disablement would be assessed at not less than 11 per cent. if that other effective cause had not arisen, the assessment shall also take account of any disablement to which the claimant may be subject as a result of that other effective cause except to the extent to which he would have been subject thereto if the relevant accident had not occurred.

(5) Any disablement to the extent to which the claimant is subject thereto as a result both of an accident and a disease or two or more accidents or diseases (as the case may be) against which he is insured under the Act shall only be taken into account in assessing the extent of disablement resulting from one such accident or disease being the one which occurred or developed last in point of time.

(6) Where the sole injury which a claimant suffers as a result of the relevant accident is one specified in column (1) of Schedule 2, whether or not such injury incorporates one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be treated, for the purposes of section 12 of, and Schedule 4 to, the Act, as resulting in the degree of disablement set against such injury in column (2) of Schedule 2 subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where, having regard to the provisions of the said Schedule 4 and to the foregoing paragraphs of this regulation, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty:

Provided that, where the relevant injury is one so specified in the said column (1) against which there is set in the said column (2) the degree of disablement of 100 per cent. and the claimant suffers some disablement to which he would have been subject whether or not the relevant accident had occurred, no reduction of that degree of disablement shall be required if the medical appeal tribunal, the medical board or single medical practitioner acting instead of a medical board (as the case may be) is satisfied that, in the circumstances of the case, 100 per cent. is a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty.

(7) For the purpose of assessing, in accordance with the provisions of the said Schedule 4, the extent of disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (6), the medical appeal tribunal, the medical board or single medical practitioner acting instead of a medical board (as the case may be) may have such regard as may be appropriate to the prescribed degrees of disablement set against the injuries specified in Schedule 2."

Amendment of regulation 31 *of the principal regulations*

3. After regulation 31(2)(*d*) of the principal regulations there shall be inserted the following sub-paragraph: