STATUTORY INSTRUMENTS

1970 No. 1551

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1970

Made - - - -	16*th October* 1970
Laid before Parliament	26*th October* 1970
Coming into Operation	28*th October* 1970

The Industrial Injuries Joint Authority, in exercise of the powers conferred by Schedule 4, paragraphs 1(*d*) and 2, of the National Insurance (Industrial Injuries) Act 1965(**a**) and the Secretary of State for Social Services in exercise of his powers under section 31(1) and Schedule 4, paragraph 1(*aa*) of the said Act, as amended by section 7 of the National Insurance Act 1969(**b**), and of all other powers enabling them in that behalf, hereby make the following regulations which have been referred to the Industrial Injuries Advisory Council:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1970, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(**c**) as amended(**d**) (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 regulation 2 of the principal regulations there shall be substituted the following 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 National Insurance (Industrial Injuries) Act 1965 (hereafter in this regulation referred to as the ' Act of 1965 ') 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 of 1965, 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) of this regulation 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

(**a**) 1965 c. 52. (**b**) 1969 c. 44. (**c**) S.I. 1964/504 (1964 I, p. 833).
(**d**) The relevant amending instruments are S.I. 1966/338, 1967/832, 1968/1007 (1966 I, p. 788; 1967 II, p. 2482; 1968 II, p. 2669).

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.

(4) Any assessment of the extent of disablement made by reference to any disability to which paragraph (2) of this regulation 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 of 1965 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 to these regulations, 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 of 1965, as resulting in the degree of disablement set against such injury in column 2 of the said 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 to the Act of 1965 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 Schedule 4 to the Act of 1965, the extent of disablement resulting from the relevant injury in any case which does not fall to be determined under paragraph (6) of this regulation, 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 the said Schedule 2."

Amendment of regulation 30 of the principal regulations

3. After sub-paragraph (*e*) of paragraph (2) of regulation 30 of the principal regulations there shall be inserted the following sub-paragraph:—

"(*f*) an increase of disablement pension in respect of special hardship under section 14 of the National Insurance (Industrial Injuries) Act 1965 by reason of being temporarily absent from Great Britain during the period of 3 months from the date on which such absence commences or during such longer period as the Secretary of State for Social Services may for special reasons allow:

Provided—

(i) that such absence or any part thereof is not for the purpose of or in connection with any employment, trade or business and

(ii) that a claim as a result of which a decision is given awarding such increase in respect of such period of absence or part thereof was made before the commencement of such absence and

(iii) that the period taken into account by an award made by such decision either includes the day of commencement of such absence or follows immediately a period which includes that day and which was taken into account by an award made by a decision given in respect of such increase to the same person."

Given under the Official Seal of the Industrial Injuries Joint Authority.

(L.S.)

D. G. Kelly,
Secretary,
Industrial Injuries Joint Authority.

15th October 1970.

Signed by authority of the Secretary of State for Social Services.

Paul Dean,
Parliamentary Under Secretary of State,
Department of Health and Social Security.

16th October 1970.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations amend provisions in the principal regulations which further define the principles of assessment of disablement contained in Schedule 4 to the National Insurance (Industrial Injuries) Act 1965 in consequence of the variations made to those principles by the National Insurance Act 1969. The regulations make provision as to the extent (if any) to which any disabilities are to be taken into account where they are 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 and they extend the provision which allows an

assessment to take account of any additional disability resulting from an industrial injury because of some other disabling condition which develops after the relevant accident. An amendment is also introduced to make it clear that the fact that some of a claimant's disabilities cannot be treated as resulting from an industrial accident does not of itself prevent an assessment of 100 per cent. being given for disabilities which are attributable to the accident.

The regulations also provide that a person shall not be disqualified for receiving an increase of disablement pension in respect of special hardship by reason of temporary absence from Great Britain, otherwise than for employment, trade or business purposes, during limited periods provided that a claim for such increase was made before the period of absence commenced and an increase was payable at the commencement of that period.

Other amendments are of a procedural or minor nature.

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