STATUTORY INSTRUMENTS

1975 No. 125

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1975

Made - - - -	*4th February* 1975
Laid before Parliament	*12th February* 1975
Coming into Operation	*5th March* 1975

The Secretary of State for Social Services(a) in exercise of powers conferred by the National Insurance (Industrial Injuries) Acts 1965 to 1974 set out in Schedule 1 to this instrument, and all other powers enabling her in that behalf, hereby makes the following regulations, which have been referred to the Industrial Injuries Advisory Council under section 62(2) of the National Insurance (Industrial Injuries) Act 1965:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1975, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(b) as amended (c) (hereafter referred to as "the principal regulations") and shall come into operation on 5th March 1975.

Amendment of regulation 1(2) *of the principal regulations*

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of "the Act of 1957" there shall be inserted the following definition:—

" 'the Act of 1965' means the National Insurance (Industrial Injuries) Act 1965;".

Amendment of regulation 3 *of the principal regulations*

3. For regulation 3 of the principal regulations (amount of disablement gratuities) there shall be substituted the following regulation:—

"*Amount of disablement gratuities*

3. Where the extent of a claimant's disablement is assessed at any of the degrees of disablement severally specified in column 1 of Schedule 3 to these

(a) For transfer of functions from the Minister of Pensions and National Insurance to (eventually) the Secretary of State, *see* Ministry of Social Security Act 1966 (c.20) and SI 1968/1699 (1968 III, p. 4585).
(b) S.I. 1964/504 (1964 I, p. 833).
(c) The relevant amending instruments are S.I. 1966/338, 1970/1551 (1966 I, p. 788; 1970 III, p. 5310).

regulations, the amount of any disablement gratuity payable shall—

(*a*) if the period taken into account by that assessment is limited by reference to the claimant's life or is not less than 7 years, be the amount calculated as the percentage of the maximum disablement gratuity (specified in paragraph 2 of Schedule 3 to the Act of 1965) which is shown in column 2 of Schedule 3 to these regulations as being appropriate to that degree of disablement;

(*b*) in any other case, be the amount calculated as such a percentage of the maximum disablement gratuity as bears the same proportion to the percentage shown in column 2 of Schedule 3 to these regulations as being appropriate to that degree of disablement as the period taken into account by the assessment bears to a period of 7 years, a fraction of 5 pence being, for this purpose, treated as 5 pence:

Provided that, whenever such maximum disablement gratuity is increased by virtue of an amendment to the Act of 1965, corresponding increases of gratuity payable under this regulation shall be payable only where the period taken into account by the assessment of the extent of disablement in respect of which the gratuity is awarded begins on or after the date of coming into operation of the enactment increasing the amount of the maximum disablement gratuity.".

Amendment of regulation 4 *of the principal regulations*

4. Regulation 4 of the principal regulations (injury benefit payable to children of school age) shall be amended by substituting for paragraph (2) of that regulation the following paragraph:—

"(2) The weekly rate of injury benefit in the case of any such child shall be—

(*a*) the amount specified in paragraph 1(*b*) of Schedule 3 to the Act of 1965 where the relevant employment was, or (if more than one) the relevant employments amounted in the aggregate to, full time employment or substantially full time employment;

(*b*) the amount specified in paragraph 7(*a*) of Schedule 3 to the Act of 1965 in any other case:

and such injury benefit shall not be payable otherwise than to a parent or guardian of the child or a person appointed by the Secretary of State to receive the benefit on behalf of the child.".

Amendments of regulation 6(2) *of the principal regulations*

5.—(1) Regulation 6(2) of the principal regulations (payments in respect of special hardship where the beneficiary is entitled to a gratuity) shall be amended by substituting for the words "section 12(7) of the Act" the words "section 12(5) of the Act of 1965".

(2) Regulation 6(2) of the principal regulations shall be further amended by the addition of the following proviso:—

"Provided that, notwithstanding the proviso to regulation 3 of these regulations, whenever the weekly rate of such pension is increased by virtue of an amendment to the Act of 1965, such increase shall have effect as from the date on which the enactment increasing the amount of the disablement pension specified in paragraph 3 of Schedule 3 to the Act of 1965 comes into

force, whether the period taken into account by the assessment began before or after that date.".

Amendment of regulation 7 of the principal regulations

6.—(1) In regulation 7(*a*) of the principal regulations (increases of disablement pension for constant attendance) for "£6·60" there shall be substituted the words "the amount specified in paragraph 6(*a*) of Schedule 3 to the Act of 1965" and for "£9·90" there shall be substituted the words "one and a half times the amount specified in paragraph 6(*a*) to the said Schedule, a fraction of five pence being, for this purpose, treated as 5 pence.".

(2) In regulation 7(*b*) of the principal regulations for "£13·20" there shall be substituted the words "the amount specified in paragraph 6(*b*) of Schedule 3 to the Act of 1965.".

Amendment of regulation 30 of the principal regulations

7. In regulation 30(2)(*f*) of the principal regulations (increase of disablement pension in respect of special hardship allowance during absence from Great Britain) for paragraph (iii) of the proviso thereto there shall be substituted the following paragraph:—

"(iii) that the period taken into account by the award of such increase to that person either includes the day of commencement of such absence or follows a period so taken into account which includes that day without there being a break in entitlement by that person to such increase from that day.".

Amendment of the principal regulations

8. After regulation 35A of the principal regulations there shall be inserted the following regulation:—

"*Conditions relating to payment of additional benefit under awards made before the day appointed for an increase of benefit under any Act amending the Act of* 1965

35B. Where an award of any benefit under the Act of 1965 has been made before the day appointed for the payment of benefit of the description to which the award relates at a higher rate by virtue of an Act which increases benefit payable under the Act of 1965, paragraph 3(1) of Schedule 6 to the National Insurance Act 1969(a) (which relates to the effect of any such award) shall, if the period to which the award relates has not ended before that day, have effect subject to the condition that if the award has not been made in accordance with the provisions of sub-paragraph (2) of that paragraph which authorise the making of such an award providing for the payment of the benefit at the higher rate as from that day and a question arises as to—

(*a*) the weekly rate at which the benefit is payable by virtue of the Act which so increases benefit or of these regulations, or

(*b*) whether the conditions for the receipt of the benefit at the higher rate are satisfied,

the benefit shall be or continue to be payable at the weekly rate specified in the award until the said questions shall have been determined in accordance with

(a) 1969 c. 44.

the provisions of the Act of 1965.".

Amendment of Schedule 2 to the principal regulations and transitional provision

9.—(1) In paragraphs 8, 9, 10, 23, 24, 25, 26 and 27 of Schedule 2 to the principal regulations (prescribed degrees of disablement—amputation cases upper and lower limbs) wherever the measurement of length specified in column 1 of the Table hereunder appears there shall be substituted therefor the measurement of length shown opposite it in column 2 of the said Table.

TABLE

Imperial measurement (1)	Metric measurement (2)
$3\frac{1}{2}$ inches	9 centimetres
$4\frac{1}{2}$ inches	11·5 centimetres
5 inches	13 centimetres
8 inches	20·5 centimetres

(2) The amendment made by the last foregoing paragraph shall not have effect in respect of any assessment of the extent of a claimant's disablement where the period taken into account thereby commences before the date on which this regulation comes into operation.

Amendment of Schedule 3 to the principal regulations

10. For Schedule 3 to the principal regulations (scale of disablement gratuities) there shall be substituted the Schedule set out in Schedule 2 to these regulations.

Amendment of Schedule 4 to the principal regulations

11. For Schedule 4 to the principal regulations (rate of disablement pension payable in lieu of disablement gratuity) there shall be substituted the Schedule set out in Schedule 3 to these regulations.

Barbara Castle.
Secretary of State for Social Services.

4th February 1975.

SCHEDULE 1

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

Enactment (1)	Relevant Provisions (2)
The National Insurance (Industrial Injuries) Act 1965(a)	Section 12(3) Section 14(7) Section 15(1) Section 16 Section 31(1) Section 78(2) Schedule 4, paragraph 2.
The National Insurance Act 1969(b)	Schedule 6, paragraphs 3 and 4.

Regulation 10

SCHEDULE 2

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 3 TO THE PRINCIPAL REGULATIONS

SCALE OF DISABLEMENT GRATUITIES

Degree of Disablement (1)	Appropriate proportion of maximum disablement gratuity (as specified in paragraph 2 of Schedule 3 to the Act of 1965) (2)
	per cent
1 per cent	10
2 per cent	15
3 per cent	20
4 per cent	25
5 per cent	30
6 per cent	35
7 per cent	40
8 per cent	45
9 per cent	50
10 per cent	55
11 per cent	60
12 per cent	65
13 per cent	70
14 per cent	75
15 per cent	80
16 per cent	85
17 per cent	90
18 per cent	95
19 per cent	100

(a) 1965 c. 52. (b) 1969 c. 44.

Regulation 11

SCHEDULE 3

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 4 TO THE PRINCIPAL REGULATIONS

RATE OF DISABLEMENT PENSION PAYABLE IN LIEU OF DISABLEMENT GRATUITY IN ACCORDANCE WITH REGULATION 6

Where the degree of disablement is as specified in column 1 of the following table, the weekly rate of the pension shall be determined in accordance with column 2 of that table:—

Degree of disablement (1)	Rate of pension (2)
less than 20 per cent but not less than 16 per cent	the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent as specified in paragraph 3 of Schedule 3 to the Act of 1965;
less than 16 per cent but not less than 11 per cent	75 per cent of the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent as specified in the said paragraph 3;
less than 11 per cent but not less than 6 per cent	50 per cent of the appropriate weekly amount of disablement pension payable in respect of a degree of disablement of 20 per cent as specified in the said paragraph 3;
less than 6 per cent	25 per cent of the appropriate weekly amount of disablement pension payable in respect of a degreee of disablement of 20 per cent as specified in the said paragraph 3; a fraction of a penny being, for these purposes, treated as one penny.

EXPLANATORY NOTE

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

These Regulations amend Regulations 3, 4 and 7 of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 to provide that benefits payable under those Regulations shall, instead of being stated as sums of money, be expressed by references to or as a proportion of the benefits shown in Schedule 3 to the National Insurance (Industrial Injuries) Act 1965 to which they are linked.

These Regulations by amending proviso (iii) to Regulation 30(2)(*f*) of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 extend the circumstances in which a person shall not be disqualified for receiving an increase of disablement benefit in respect of special hardship during a period abroad by providing that he may (subject to satisfaction of other conditions) claim and receive such increase for a period abroad which follows without a break entitlement to such increase which commenced on or before the day he went abroad, notwithstanding that he did not claim for that period until after his departure.

These Regulations also substitute metric measurement for imperial measurement in amputation cases in relation to assessments of disablements for periods commencing after these Regulations come into operation.

Other amendments are of a procedural or minor nature.

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