STATUTORY INSTRUMENTS

1976 No. 1277

SOCIAL SECURITY

The Workmen's Compensation (Supplementation) (Amendment) Scheme 1976

Laid before Parliament in draft

Made - - - -	*4th August* 1976
Coming into Operation	*15th November* 1976

Whereas a draft of the following Scheme was laid before Parliament and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, with the consent of the Treasury, in exercise of powers conferred by section 2 of the Industrial Injuries and Diseases (Old Cases) Act 1975(a) and of all other powers enabling him in that behalf, hereby makes the said Scheme:—

Citation, commencement and interpretation

1. This Scheme, which may be cited as the Workmen's Compensation (Supplementation) (Amendment) Scheme 1976, shall be read as one with the Workmen's Compensation (Supplementation) Scheme 1966(b) as amended (c) (hereinafter referred to as "the principal Scheme") and shall come into operation on 15th November 1976.

Amendment of Article 7 of the principal Scheme

2. In Article 7(1) of the principal Scheme (computation of loss of earnings)—

(*a*) for "18 January 1975" there shall be substituted the words "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 Article 7(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

(a) 1975 c. 16 (b) S.I. 1966/165 (1966 I, p. 325).

(c) The relevant amending instruments are S.I. 1971/1223, 1975/513, 1138 (1971 II, p. 3580: 1975 I, p. 1688: II, p. 3996).

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 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 Articles 7(1) and 7(1A) of this Scheme, in any case where lesser incapacity allowance is in payment to a person before the 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 this Scheme.".

Substitution of Schedule 1 *to the principal Scheme*

3. For Schedule 1 to the principal Scheme (table of loss of earnings and corresponding rate of lesser incapacity allowance) there shall be substituted the Schedule set out in the Schedule to this Scheme.

Revocation of Articles 26 *and* 27(1)(*c*) *of the principal Scheme*

4. Articles 26 and 27(1)(*c*) of the principal Scheme (claim in exceptional circumstances and review of decisions of Board) are hereby revoked.

Transitional provision relating to determination of claims

5. Notwithstanding the provisions of the last foregoing Article, where a claim for an allowance—

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

(*b*) the question prescribed in the said Article 26 (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 Article of this Scheme, the said Article 26 would have applied for the purpose of the determination of that question;

that question shall be determined as though the said Article 26 had not been revoked.

Transitional provision relating to rate of allowance

6. Where a lesser incapacity allowance has been awarded to a person under the principal Scheme before 15th November 1976 and a question arises as to the weekly rate of that allowance payable in consequence of this Scheme, the case shall be reviewed by the Board in the light of the amendments made by

this Scheme 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 Scheme.

David Ennals,
Secretary of State for
Social Services.

29th July 1976

We consent.

T. Pendry,
J. Dormand,
Two of the Lords Commissioners
of Her Majesty's Treasury.

4th August 1976

Article 3

SCHEDULE

Containing new Schedule 1 to be substituted in principal Scheme

Article 5

SCHEDULE 1

Table of loss of earnings and corresponding rate of lesser incapacity allowance

Loss of earnings	Rate of lesser incapacity allowance
£	£
2·49½	80p
5·49½	2·00
8·49½	3·50
9·99½	5·00
12·24½	7·25
12·25	9·20

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme further amends the Workmen's Compensation (Supplementation) Scheme 1966.

Article 2 amends Article 7 of the principal Scheme to provide a method of computing the loss of earnings of a claimant in cases where the claim is made after the date on which this amending Scheme comes into operation. The Article also provides that, in relation to a person whose loss of earnings has been ascertained before the date on which this amending Scheme comes into operation, that amount shall continue to represent that person's loss of earnings.

Article 3 provides for the substitution of a new table of loss of earnings and the corresponding rate of lesser incapacity allowance in Schedule 1 to the principal Scheme.

Article 4 revokes Articles 26 and 27(1)(*c*) of the principal Scheme.

Articles 5 and 6 contain transitional provisions.

SI 1976/1277
ISBN 0-11-061277-9

