STATUTORY INSTRUMENTS

1977 No. 991

SOCIAL SECURITY

The Workmen's Compensation (Supplementation) (Amendment) Scheme 1977

Made - - - -	*9th June* 1977
Laid before Parliament	*10th June* 1977
Coming into Operation	*1st July* 1977

The Secretary of State for Social Services, after consultation with the Council on Tribunals insofar as required by section 10 of the Tribunals and Inquiries Act 1971(**a**), and with the consent of the Treasury, in exercise of the powers conferred by sections 2(1) and (2) and 4(2), (3) and (4) of the Industrial Injuries and Diseases (Old Cases) Act 1975(**b**) (as amended by section 11 of the Social Security (Miscellaneous Provisions) Act 1977(**c**)) and section 10(2) of, and paragraph 9 of Part II of Schedule 1 to, that Act and all other powers enabling him in that behalf, hereby makes the following scheme which is made only in consequence of the enactment of the provisions of section 10(2) of, and Part II of Schedule 1 to, that Act and to make amendments to a scheme mentioned in section 10(2) relating to the payment of allowances during imprisonment and to applications to undergo medical examination and which accordingly by virtue of section 11(6) of that Act is exempt from the requirement of section 4(8) of the Industrial Injuries and Diseases (Old Cases) Act 1975 (scheme not to be made unless a draft of that scheme has been approved by resolution of each House of Parliament):—

Citation, interpretation and commencement

1. This scheme, which may be cited as the Workmen's Compensation (Supplementation) (Amendment) Scheme 1977, shall be read as one with the Workmen's Compensation (Supplementation) Scheme 1966(**d**) (hereinafter called "the principal scheme") as amended(**e**) and shall come into operation on 1st July 1977.

Amendment of article 1(2) *of the principal scheme*

2. In article 1(2) of the principal scheme (interpretation):—

(*a*) for the definition of "the Minister" there shall be substituted:—

"the Secretary of State" means "the Secretary of State for Social Services";

(*b*) for the definition of "the Board" there shall be substituted the following definition:—

(**a**) 1971 c. 62.
(**b**) 1975 c. 16.
(**c**) 1977 c. 5.
(**d**) S.I. 1966/165 (1966 I, p. 325).
(**e**) The relevant amending schemes are S.I. 1971/1223, 1975/1138, 1976/1277 (1971 II, p. 3580; 1975 II, p. 3996; 1976 II, p. 3608).

"the Board" has the meaning assigned to it immediately before the Workmen's Compensation (Supplementation) (Amendment) Scheme 1977(**a**) came into operation;

(*c*) there shall be added the following definitions:—

(i) after the definition of "the Industrial Injuries Act"—

"the Social Security Act" means the Social Security Act 1975(**b**);

(ii) after the definition of "workmen's compensation"—

"the appropriate determining authority" means an insurance officer or, as the case may be, a local tribunal or National Insurance Commissioner within the meaning of section 97 of the Social Security Act;

"the insurance officer" means "an insurance officer appointed under section 97(1) of the Social Security Act;".

Additions to the principal scheme

3. After article 10 of the principal scheme there shall be inserted the following articles:—

"*Administration of the Scheme*

10A.—This scheme shall be administered by the Secretary of State and, subject to articles 18 and 19, the provisions of the Social Security (Claims and Payments) Regulations 1975(**c**) and the Social Security (Industrial) Injuries) (Benefit) Regulations 1975(**d**) which are specified in Schedule 2 to this scheme shall, with the necessary modifications, apply for the purposes of this scheme.

Determination of questions arising under the scheme

10B.—Subject to the provisions of article 14 of this scheme, any question relating to any allowance under this scheme shall be determined as if it had arisen under the Social Security Act and, except where this scheme otherwise provides, the provisions of the Social Security Act and of the Social Security (Determination of Claims and Questions) Regulations 1975(**e**) which are specified in Schedule 2 to this scheme shall, with the necessary modifications, apply for the purposes of this scheme."

Amendment of article 15 *of the principal scheme*

4. For article 15 of the principal scheme (finality of decisions of Board) there shall be substituted the following article:—

"15. Except as provided by article 34, any decision given by the Board on a claim or question under provisions of this scheme in force immediately before the Workmen's Compensation (Supplementation) (Amendment) Scheme 1977 came into operation or under any scheme made under the 1951 Act in force immediately before 1st March 1966 shall be final for the purposes of this scheme."

Amendment of article 18 *of the principal scheme*

5. For article 18 of the principal scheme (obligation to undergo medical examination) there shall be substituted the following article:—

(**a**) S.I. 1977/991 (1977 II, p. 2789).
(**b**) 1975 c. 14.
(**c**) S.I. 1975/560 (1975 I, p. 2014).
(**d**) S.I. 1975/559 (1975 I, p. 1979).
(**e**) S.I. 1975/558 (1975 I, p. 1956).

"18.—(1) Subject to the following provisions of this article, every claimant for, and every beneficiary in receipt of, an allowance shall comply with every notice given to him by the Secretary of State which requires him to submit himself to a medical examination by a medical authority (as defined in paragraph (4) of this article).

(2) Every notice given to a claimant or beneficiary requiring him to submit himself to medical examination shall be given in writing and shall specify the time and place of examination but shall not require the claimant or beneficiary to submit himself to examination—

(*a*) in the case of examination by a medical board, before the expiration of the period of 6 days beginning with the date of the notice or such shorter period as may be reasonable in the circumstances;

(*b*) in any other case, on a date earlier than the third day after the date on which the notice was sent.

(3) Every claimant and every beneficiary who, in accordance with the foregoing provisions of this article, is required to submit himself to a medical examination shall attend at every such place and at every such time as may be required.

(4) In this article, the expression "medical authority" means the Medical Board or a medical practitioner nominated by the Secretary of State".

Amendment of article 25 *of the principal scheme*

6. Article 25 of the principal scheme (allowances during imprisonment) shall be amended in accordance with the following provisions of this article:—

(*a*) in paragraph (1)(*b*) for "amount to £100" there shall be substituted "equal the total amount payable by way of such allowances for a period of one year"; and

(*b*) paragraph (2) shall be omitted.

Amendment of article 34 *of the principal scheme*

7. For article 34 of the principal scheme (transitional provisions as to review) there shall be substituted the following article: —

"*Transitional provision relating to review of decision of the Board*

34.—(1) The insurance officer may at any time and from time to time review any decision given by the Board under provisions of this scheme in force before if—

(*a*) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or

(*b*) there has been any relevant change of circumstances since the decision was given.

(2) The claimant or the Secretary of State may raise a question with a view to the review of any decision of the Board by application in writing to the insurance officer stating the grounds of the application.

(3) Where it appears to the Secretary of State that a question has arisen whether the award of an allowance to which this article relates ought to

be revised in accordance with the provisions of paragraph (1) of this article, he may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if he does so he shall forthwith refer the question to the insurance officer for determination in accordance with the provisions of this article.

(4) Any question arising in connection with the review to which this article applies shall be determined and, if appropriate, the decision shall be revised and an allowance awarded or paid in accordance with the provisions in force when the original decision was given.

(5) Where on a review to which this article applies a decision of the Board is revised so as to make an allowance payable or to increase the rate of an allowance, the decision given on review shall, subject to the next succeeding paragraph of this article, have effect from the date of the application for the review or from such earlier date as appears to the appropriate determining authority to be reasonable in the circumstances.

(6) Benefit shall not, by virtue of the last preceding paragraph become payable from a date earlier than the earliest date from which it could have been payable had it been awarded in the decision being reviewed.

(7) A decision given on review under this article, and a refusal to review a decision thereunder shall be subject to appeal to the local tribunal and the Commissioner on the grounds set out in subparagraphs (*a*) and (*b*) of paragraph (1) of this article.

(8) Where a decision is revised on review under this article, the decision given on review shall, subject to the provisions of the next succeeding paragraph, require repayment to the National Insurance Fund of any sums paid by way of an allowance in pursuance of the original decision to the extent to which they would not have been payable if the decision on the review had been given in the first instance.

(9) Notwithstanding the provision of the last preceding paragraph of this article, repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this article in any case where it is shown to the satisfaction of the determining authority that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(10) For the purposes of this article a decision given under any scheme made under the 1951 Act shall be treated as if it were a decision given under this scheme as it was immediately before the Workmen's Compensation (Supplementation) (Amendment) Scheme 1977 came into operation.

(11) On the review of a decision given by the Board under any scheme made under the 1951 Act in force before 1st March 1966, a decision given by an insurance officer on any question referred to him for determination under any such scheme may be reviewed by such an insurance officer in accordance with the provisions of that scheme".

Amendment of the principal scheme consequential on changes in administration and adjudication

8. The principal scheme shall be amended in accordance with the following provisions of this article:—

(*a*) in article 1(4)(*d*) for "one hundred and four pounds a year" there shall be substituted "in a year such amount as is for the time being prescribed in pursuance of section 58(3) of the Social Security Act (unemployability supplement)";

(*b*) in article 3(1)(*b*) for "to the Board" there shall be substituted "to the appropriate determining authority";

(*c*) in article 3(2), in the proviso to article 5(3) and in article 7(2)(*b*) "to the satisfaction of the Board" shall be omitted.

(*d*) articles 11, 12, 13, 16, 20, 24, 27, 28 and 35 shall be revoked;

(*e*) in proviso (*c*) to article 6(1) there shall be omitted the expressions "the Board is satisfied that", "in the opinion of the Board" and "the Board may determine";

(*f*) in article 6(4) "decided by the Board to be" shall be omitted;

(*g*) in article 7(1) for "the Board may in their discretion determine" there shall be substituted "the appropriate determining authority may determine";

(*h*) in article 7(2)(*a*) for "the Board shall take the standard of remuneration to be such as appears to them to be appropriate" there shall be substituted "the standard of remuneration shall be taken to be such as is appropriate";

(*i*) in article 7(2)(*d*) for "the Board may determine the amount which represents a person's weekly loss of earnings under paragraph (1) of this Article" there shall be substituted "the amount which represents a person's weekly loss of earnings under paragraph (1) of this article may be determined";

(*j*) in article 9(*b*) for "the Board is" there shall be substituted the words "the appropriate determining authority is";

(*k*) in article 10(1)(*b*) "in the discretion of the Board" shall be omitted;

(*l*) in article 14 for "the Board" there shall be substituted the words "the insurance officer";

(*m*) in article 17 for "the Board or the Minister, as the case may be" and for "the Board or the Minister" there shall be substituted "the Secretary of State";

(*n*) in article 19 for "the Board may determine that the allowance shall be payable from such earlier date as they consider reasonable" there shall be substituted "the allowance shall be payable from such earlier date as is reasonable";

(*o*) in article 21 for the words following "allowance or part" there shall be substituted the words "of an allowance";

(*p*) in article 23 for "the Board so decide" there shall be substituted "the appropriate determining authority so decides" and for "the Board shall determine" there shall be substituted "the appropriate determining authority shall determine";

(*q*) in article 29 for "under article 28" there shall be substituted "under this scheme";

(*r*) in article 31 for "shall be determined by the Board, or where appropriate by an insurance officer appointed to exercise functions under Part III of the Industrial Injuries Act" there shall be substituted "shall be determined by the appropriate determining authority";

(*s*) in article 32 for "in the opinion of the Minister or, as the case may be, the Board" there shall be substituted "in the opinion of the Secretary of State";

(*t*) in article 36 "in the opinion of the Board" shall be omitted and for "as the Board may think reasonable" there shall be substituted "as is reasonable".

Substitution of Schedule 2 to the principal scheme

9. For Schedule 2 to the principal scheme (provisions of the Industrial Injuries Act and of regulations made thereunder applicable (with the necessary modifications) to claims for and payment of allowances) there shall be substituted the Schedule set out in the Schedule to this scheme.

Repeal of paragraphs 7 and 8 of Schedule 1 to the Social Security (Miscellaneous Provisions) Act 1977

10. Paragraphs 7 and 8 of Schedule 1 to the Social Security (Miscellaneous Provisions) Act 1977(**a**) insofar as they relate to the Workmen's Compensation (Supplementation) Scheme 1966 are hereby repealed.

David Ennals,

Secretary of State for Social Services.

2nd June 1977.

We consent

T. E. Graham,
David Stoddart,

Two of the Lords Commissioners of Her Majesty's Treasury.

9th June 1977.

(**a**) 1977 c. 5.

SCHEDULE Article 3

Containing new Schedule 2 to be substituted in principal scheme

SCHEDULE 2 Articles 10A and 10B

Provisions of the Social Security Act and regulations made thereunder applicable (with the necessary modifications) to this scheme.

Provisions of the Social Security Act and of regulations made thereunder	**Subject matter**
Social Security Act 1975(a)	
Section 99	Decision of insurance officer.
Section 100	Appeal to local tribunal.
Section 101	Appeal from local tribunal to Commissioner.
Section 102	Questions first arising on appeal.
Section 104	Review of decisions.
The Social Security (Claims and Payments) Regulations 1975(b)	
Regulation 4	Claims to be made to the Secretary of State in writing.
Regulation 5	Supply of claim forms.
Regulation 6	Claims not on appropriate forms.
Regulation 8	Amendment of claim forms.
Regulation 15	Time and manner of payment of benefit.
Regulation 20	Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time.
Regulation 26	Persons unable to act.
Regulation 27	Payments on death.
The Social Security (Determination of Claims and Questions) Regulation 1975(c)s	
Regulation 3	Procedure at hearings and in connection with determinations; and right to representation.
Regulation 4	Non-disclosure of evidence by local tribunal and Commissioner.

(a) 1975 c. 14. (b) S.I. 1975/560 (1975 I, p. 2014). (c) S.I. 1975/558 (1975 I, p. 1956).

Provisions of the Social Security Act and of regulations made thereunder	Subject matter
Regulation 5	Reference by the Secretary of State, or insurance officer or a competent tribunal to medical practitioner for report.
Regulation 9	Appeals from insurance officer's decisions.
Regulation 10	Time and place of hearing before local tribunals.
Regulation 11	Hearing before local tribunals.
Regulation 12	Decisions of local tribunals.
Regulation 13	Procedure before Commissioner on appeal from a local tribunal.
Regulation 32(1) and (2)(*a*) ...	Review of decisions involving payment or increase of benefit.
Regulation 34	Adjustment of benefit on review or appeal.
The Social Security (Industrial Injuries) (Benefit) Regulations 1975 (a)	
Regulation 38	Suspension of payment of benefit.
Regulation 39	Suspension of payment of benefit pending appeals or references.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme amends the Workmen's Compensation (Supplementation) Scheme 1966 in accordance with the amendments made to the Industrial Injuries and Diseases (Old Cases) Act 1975 by sections 10(2) and 11 of, and Part II of Schedule 1 to, the Social Security (Miscellaneous Provisions) Act 1977.

Article 3 and the Schedule to this scheme provide for the principal scheme to be administered by the Secretary of State, for questions (other than certain medical questions) to be determined as if they had arisen under the Social Security Act 1975 and for certain regulations made under that Act to apply for the purposes of the principal scheme.

Articles 5 and 6 amend the provisions of the principal scheme relating to applications to undergo medical examination and to payment of allowances during imprisonment respectively.

The other articles are of a consequential, minor or transitional nature.

(a) S.I. 1975/559 (1975 I, p. 1979).

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