
STATUTORY INSTRUMENTS

1986 No. 1561

The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986

PART II

MISCELLANEOUS PROVISIONS RELATING TO INDUSTRIAL INJURIES AND DISEASES

Regular Occupation for the purposes of Reduced Earnings Allowance

2.—(1) Employed earner's employment in which a claimant was engaged when the relevant accident took place but which was not his regular occupation shall be treated for the purposes of section 59A of the 1975 Act (reduced earnings allowance)(1) as if it had been his regular occupation where the claimant, at the time the relevant accident took place, had no regular occupation but was pursuing a course of full-time education, either by attendance at a recognised educational establishment or, if the education is recognised by the Secretary of State in accordance with section 2(1A) of the Child Benefit Act 1975(2), elsewhere.

(2) In determining for the purpose of paragraph (1) whether a person was pursuing a course of full-time education, any temporary interruption of that education not exceeding a period of 6 months, or such longer period as the Secretary of State may in any particular case determine, shall be disregarded.

Aggregation of Percentages of Disablement

3.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 shall be amended in accordance with the following provisions of this regulation.

(2) After regulation 15 there shall be inserted the following regulations:—

“Aggregation of Percentages of Disablement

15A.—(1) After the extent of an employed earner's disablement resulting from the relevant disease has been determined, the Adjudication Officer shall add to the percentage of that disablement the assessed percentage of any present disablement of his resulting from

- (a) any accident after 4th July 1948 arising out of and in the course of his employment, being employed earner's employment, or
- (b) any other relevant disease due to the nature of that employment and developed after 4th July 1948,

and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of disablement.

(1) See paragraph 5 of Schedule 3 to the Social Security Act 1986 (c.50).

(2) Section 2(1A) was inserted by section 70(1)(b) of the Social Security Act 1986.

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(2) In determining the extent of an employed earner's disablement for the purposes of section 57 of the Act there shall be added to the percentage of disablement resulting from any relevant accident the assessed percentage of any present disablement of his resulting from any disease or injury prescribed for the purposes of Chapter V of Part II of the Act, which was both due to the nature of the employment and developed after 4th July 1948, and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of his disablement.

(3) This regulation is subject to the provisions of regulation 15B(3).

Rounding

15B.—(1) Subject to the provisions of this regulation, where the assessment of disablement is a percentage between 20 and 100 which is not a multiple of 10, it shall be treated—

(a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10; and

(b) if it is not a multiple of 5 as being the nearest percentage which is a multiple of 10, and where it is 14 per cent. or more but less than 20 per cent. it shall be treated as 20 per cent.

(2) In a case to which regulation 15A (aggregation of percentages of disablement) applies, paragraph (1) shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

(3) Where a reassessment states the degree of disablement due to occupational deafness as less than 20 per cent. that percentage shall be disregarded for the purposes of regulation 15A and this regulation.”.

(3) For paragraph (1) of regulation 20 there shall be substituted the following paragraphs:—

“(1) On a claim for disablement pension in respect of pneumoconiosis, byssinosis or diffuse mesothelioma, section 57(1) shall apply as if for “14 per cent.” there was substituted “1 per cent.”.

(1A) Where on a claim for disablement pension in respect of pneumoconiosis, byssinosis or diffuse mesothelioma the extent of the disablement is assessed at one per cent. or more, but less than 20 per cent., disablement pension shall be payable at the 20 per cent. rate if the resulting degree of disablement is greater than 10 per cent. and if it is not at one-tenth of the 100 per cent. rate, with any fraction of a penny being for this purpose treated as a penny.

(1B) Where immediately before 1st October 1986 a person is entitled to a disablement pension on account of pneumoconiosis, byssinosis or diffuse mesothelioma and in determining the extent of his disablement other disabilities were taken into account in accordance with regulation 11 of the Social Security (General Benefit) Regulations 1982, disablement pension shall continue to be payable on or after 1st October 1986 at the weekly rate applicable to the degree of disablement determined on the last assessment made before 1st October 1986 until—

(a) on a reassessment or review of the extent of disablement the degree of disablement is assessed either as less than 1 per cent. or as equal to or more than that determined on that last assessment, or

(b) the other disability ceases to exist.”.

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