
STATUTORY INSTRUMENTS

1986 No. 1561

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

PART IV

TRANSITIONAL PROVISIONS

Awards in respect of two or more accidents

8.—(1) Where a person—

- (a) was awarded a disablement gratuity under section 57(5) of the 1975 Act following any provisional assessment of the extent of his disablement arising from a relevant accident, and
- (b) no final assessment of the extent of disablement in respect of that accident has been made, and
- (c) has suffered one or more other relevant accidents in respect of which he claimed a disablement pension on or after 1st October 1986, and
- (d) the degree of disablement arising from any such other accident is assessed as at least one per cent. for a period which coincides wholly or partly with the period of any such provisional assessment (the common period), and
- (e) the aggregate of the degrees of disablement resulting from the relevant accidents for the common period entitles him to a disablement pension, that pension shall be payable to him until the expiration of the common period at the appropriate weekly rate for a degree of disablement calculated in accordance with the provisions of section 57(1B) of the 1975 Act (rounding of assessments)(1) but deducting from the resulting aggregate the degree of disablement in respect of which any disablement gratuity has been paid.

(2) Where payment of an award of disablement gratuity is suspended in accordance with regulation 41 of the Social Security (General Benefit) Regulations 1982(2), paragraph (1) above shall apply as if references to “provisional assessment” included a reference to a final assessment, and sub-paragraph (b) was omitted.

(3) Where the degree of disablement in respect of which a pension is payable under paragraph (1) is less than 20 per cent. the weekly rate of pension shall be calculated by treating each percentage point as equivalent to 1 per cent. of the amount payable for the degree of disablement of 100 per cent. as specified in paragraph 3 of Part V of Schedule 4 to the 1975 Act, and any resultant fraction of a penny shall be treated as a penny.

(4) Where the degree of disablement in respect of which a pension is payable under paragraph (1) is over 20 per cent. but is not a percentage specified in column 2 of paragraph 3 of Part V of Schedule 4 to the 1975 Act, the amount of pension shall be calculated—

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

(2) The relevant amending instrument is S.I. 1983/186.

- (a) by reference to the amount payable in respect of the next lowest percentage degree of disablement which is so specified, and
- (b) by adding to that amount for each percentage point by which the appropriate rate exceeds that percentage degree of disablement 1 per cent. of the amount payable for the degree of disablement of 100 per cent.,

any resultant fraction of a penny being treated as a penny.

(5) In this regulation and regulation 12 “accident” includes a disease prescribed under Part II of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985.

Reduced Earnings Allowance payable before 6th April 1987

9. The aggregate of disablement pension and reduced earnings allowance awarded to a beneficiary shall not, for any part of the period which falls before 6th April 1987, exceed the maximum rate of disablement pension.

Persons entitled immediately before 1st October 1986 to an increase under section 60 of the 1975 Act

10. A beneficiary who on 30th September 1986 was entitled for any period to an increase of disablement pension under section 60 of the 1975 Act (increase for special hardship) shall be treated as entitled for any part of that period which falls after that day and in respect of which he would have satisfied the conditions of entitlement specified in that section but for paragraph 5(2) of Schedule 3 to the 1986 Act, to reduced earnings allowance either—

- (a) at the weekly rate at which the increase was payable to him in respect of the week ending 30th September 1986, or
- (b) where on a review a decision is revised after 30th September 1986, at the weekly rate of increase or, as the case may be, allowance, which is appropriate to the date of the review, increased as appropriate in accordance with any order made under section 124 of the 1975 Act (power to increase rates of benefit).

Unemployability Supplement and Reduced Earnings Allowance

11. A reduced earnings allowance under section 59A of the 1975 Act and an unemployability supplement shall not be payable for the same period.

Unforeseen Aggravation

12.—(1) Where a claim for disablement benefit has been made before 1st October 1986 and an application is made on or after that date for the assessment of the extent of disablement to be reviewed on the ground that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant accident, the application for review shall be determined in accordance with the following paragraphs.

(2) Where—

- (a) the assessment
 - (i) was final and the period of any new assessment begins on a day earlier than 1st October 1986, or
 - (ii) was provisional, or
- (b) (i) the assessment was final, and
 - (ii) the period taken into account by the review begins on or after 1st October 1986, and

- (iii) the beneficiary at the date of the review is entitled to a disablement pension in lieu of a gratuity under regulation 18 of the Social Security (General Benefit) Regulations 1982,

then the application for review shall be determined as though paragraph 3(1) of Schedule 3 to the 1986 Act had not been enacted and paragraph 3(2) had been enacted to the extent only of inserting subsection (1B) of section 57 of the 1975 Act but omitting the words “Subject to paragraph (1C)” and the words “from where it is” to the end of the subsection and section 57(5) of the 1975 Act had not been repealed.

(3) In a case to which paragraph (2)(b) refers, where on a subsequent assessment the extent of the beneficiary's disablement is assessed at 1 per cent. or more but less than 14 per cent., that assessment shall be determined as though section 57(5) of the 1975 Act had not been repealed, but no entitlement to a further pension in lieu of a gratuity shall arise.

Delayed claims

13.—(1) Where a relevant accident occurred before, or the date of onset of a disease prescribed in accordance with Part II of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 was before, 1st October 1986 and

- (a) the claimant delays making a claim for disablement benefit until on or after that date, and
- (b) the degree of his disablement is assessed at less than 14 per cent., and
- (c) he proves that throughout a period commencing on a date before 1st October 1986 and ending with the date of claim—
 - (i) he was incapable of making an earlier claim or,
 - (ii) he had good cause for delaying making such a claim because of advice provided by the Department of Health and Social Security.

then the claim shall be determined as though it had been made on 30th September 1986.

(2) In cases to which paragraph (1) applies a claimant to whom a disablement gratuity is awarded shall not be entitled to receive a pension in lieu of that gratuity under regulation 18(2) of the Social Security (General Benefit) Regulations 1982.

Claims for disablement benefit made before 1st October 1986

14. Where a claim for disablement benefit is made before 1st October 1986, that claim shall be determined as though—

- (a) paragraph 3(1) of Schedule 3 to the 1986 Act had not been enacted,
- (b) paragraph 3(2) had been enacted to the extent only of inserting subsection (1B) of section 57 of the 1975 Act but omitting the words “Subject to paragraph (1C)” and the words from “and where it is” to the end of the subsection.