
STATUTORY INSTRUMENTS

1987 No. 415

The Social Security (Industrial Injuries) (Reduced Earnings Allowance and Transitional) Regulations 1987

PART II

REDUCED EARNINGS ALLOWANCE

Determination of the probable standard of remuneration

2.—(1) On any award of reduced earnings allowance except the first award made in respect of a relevant accident or a disease prescribed in accordance with chapter V of Part II of the Act, a person's probable standard of remuneration shall be determined in accordance with the following provisions of this regulation or, if applicable, of regulation 3.

(2) On the second award made in respect of an accident or disease, a person's probable standard of remuneration in any employment shall be determined in the same manner as on the first award.

(3) On a third or subsequent award made in respect of an accident or disease, a person's probable standard of remuneration in an employment shall be determined—

- (a) if applicable, in accordance with paragraphs (4)—(8) of this regulation or with regulation 3, or
- (b) otherwise in the same manner as on the first award.

(4) Where at the time of the award a person's regular occupation has ceased to exist, his probable standard of remuneration in the regular occupation shall be determined in accordance with paragraph (6).

(5) Where at the time of the award either—

- (a) a person is not employed, or
- (b) he is employed but the employment is not suitable in his case, and
- (c) there has been no relevant change of circumstances since the last previous award,

the probable standard of remuneration in any employed earner's employment which is suitable in his case and which he is likely to be capable of following shall be determined in accordance with paragraph (6).

(6) For the purposes of paragraphs (4) and (5) a person's probable standard of remuneration shall be determined by reference to the standard determined for the purposes of the last previous award of reduced earnings allowance [^{F1}adjusted by a percentage equal to any percentage change] in the level of earnings for the relevant occupational groups.

(7) For the purposes of paragraph (6) and regulation 3(1)—

- (a) the relevant occupational group is the numbered group specified in data relating to earnings published from time to time by the Department of Employment which is the nearest to, respectively,
 - (i) the person's regular occupation,

Status: Point in time view as at 01/01/2014.

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- (ii) any employed earner's employments which are suitable in his case and which he is likely to be capable of following; and
 - (b) the [^{F2}percentage change] in the level of earnings shall be determined by reference to the movement in average gross weekly earnings of full-time employees on adult rates in the relevant occupational group where pay was not affected by absence; and
 - (c) a [^{F3}percentage change] for any year shall be applied to a determination of the probable standard of remuneration on an award made for a period commencing on or after the first Wednesday in the February of the year following the year to [^{F3}which the change relates].
- (8) For the purposes of paragraph (4), a person's regular occupation has ceased to exist where—
- (a) his former employer has ceased to trade in the locality, or
 - (b) the work the person did at his former place of employment no longer exists or has changed to such a degree that the work amounts to a different occupation,
- and there is in the person's locality no employer providing work similar to that in which he was engaged.

Textual Amendments

- F1** Words in [reg. 2\(6\)](#) substituted (11.4.1988) by [The Social Security \(Industrial Injuries\) \(Miscellaneous Amendments\) Regulations 1988 \(S.I. 1988/553\)](#), regs. 1, [4\(2\)](#)
- F2** Words in [reg. 2\(7\)\(b\)](#) substituted (11.4.1988) by [The Social Security \(Industrial Injuries\) \(Miscellaneous Amendments\) Regulations 1988 \(S.I. 1988/553\)](#), regs. 1, [4\(3\)](#)
- F3** Words in [reg. 2\(7\)\(c\)](#) substituted (11.4.1988) by [The Social Security \(Industrial Injuries\) \(Miscellaneous Amendments\) Regulations 1988 \(S.I. 1988/553\)](#), regs. 1, [4\(4\)](#)

Awards at the maximum rate

3.—(1) Where on the second or subsequent award of reduced earnings allowance in respect of an accident or disease the award—

- (a) is made at the maximum rate payable under section 59A(8) of the Act, or
- (b) would have been made at that rate but for paragraph 5(3) of Schedule 3 to the 1986 Act or regulation 8,

then, but subject to paragraph (2), on any award thereafter the probable standard of a person's remuneration in any employment shall be determined as being the same standard as that determined for the purpose of the last previous award of reduced earnings allowance increased by a percentage equal to any percentage increase in the level of earnings for the relevant occupational groups.

(2) This regulation does not apply where—

- (a) on an award, reduced earnings allowance would be payable at a rate below the maximum rate payable under section 59A(8) of the Act otherwise than by virtue of paragraph 5(3) of Schedule 3 to the 1986 Act or regulation 8; or,
- (b) there has been a relevant change in the person's circumstances since the last previous award.

Awards following relevant change of circumstances

4. An award of reduced earnings allowance following a relevant change of circumstances shall be treated for the purpose of Part II of these Regulations as the first such award.

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