

Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975

1975 CHAPTER 17

An Act to consolidate the Workmen's Compensation (Supplementation) Measures (Northern Ireland) 1966 to 1974 and related enactments. [20th March 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Continuation of workmen's compensation in certain cases. 1946 c. 21 (N.I.).

1. The Workmen's Compensation Acts and any other enactment repealed by section 88 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 shall continue to apply to any cases to which, if the Supplementation Act had not been passed, they would have applied by virtue of the said section 88, being certain cases where a right to compensation arises or has arisen in respect of employment before 5th July 1948.

Regulations to provide for supplementing workmen's compensation.

2.—(1) The Department may, with the consent of the Department of Finance, make regulations (in this Act referred to as "the regulations") conferring a right to allowances payable out of the National Insurance Fund on persons who are, or have at any time after 23rd July 1951 been, entitled to weekly payments by way of workmen's compensation, other than a person whose entitlement to such payments—

(*a*) arose in consequence of an accident happening after 31st December 1923; and

(*b*) ceased before 24th July 1956.

(2) Subject to the provisions of this Act, the right to such an allowance as aforesaid or to a payment on account thereof shall be subject to such conditions, and the rate of the allowance shall be such, as may be provided by the regulations.

(3) The allowances for the payment of which the regulations may make provision shall be—

(*a*) where the relevant accident happened before 1st January 1924, an allowance (in this section referred to as a " basic allowance ") in respect of any period such as is mentioned in subsection (7) below;

(*b*) an allowance in respect of any period such as is mentioned in subsection (7)(*a*) (in this section referred to as a " major incapacity allowance ");

(*c*) subject to subsections (4) and (5) below, an allowance in respect of any period such as is mentioned in subsection (7)(*b*) (in this section referred to as a " lesser incapacity allowance ");

and a major incapacity allowance or lesser incapacity allowance in respect of any period shall be payable whether or not a basic allowance is also payable in respect of that period.

(4) A lesser incapacity allowance—

(*a*) shall not be payable to any person in respect of any period unless there is or may be expected to be (or, but for the cesser at a time after 28th February 1966 of that person's entitlement to workmen's compensation, would or might be expected to have been) payable to that person in respect of that period either a weekly payment by way of basic allowance or a weekly payment by way of workmen's compensation which is not a notional payment;

(*b*) except to a person who, immediately before 1st March 1966, was receiving an allowance under a scheme made under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951, shall not be payable if the relevant accident happened after 31st December 1923 and the claimant's entitlement to workmen's compensation in consequence thereof ceased before 1st March 1966.

1951 c. 16 (N.I.).

(5) For the purposes of a lesser incapacity allowance, a weekly payment by way of workmen's compensation shall be treated as a notional payment if awarded or paid for the purpose of safeguarding a potential entitlement to compensation and

not related to any existing loss of earnings; and the regulations may provide that—

(*a*) in such circumstances or cases as may be specified in the regulations; and

(*b*) in particular, in cases where weekly payments by way of such compensation are being paid to a person to whom such payments were not made, or were made at a lower rate, during the period of 12 months immediately preceding such date not earlier than 30th November 1965 as may be specified in the regulations,

a weekly payment by way of such compensation shall be deemed to be a notional payment unless the contrary is proved.

(6) The weekly rate—

(*a*) of a basic allowance shall not exceed £2 less the amount of the recipient's workmen's compensation and, in respect of a period such as is mentioned in subsection (7)(*b*) below which is a period of partial incapacity only, shall also not exceed the difference between two-thirds of the amount representing his weekly loss of earnings determined in accordance with the regulations and the amount of his workmen's compensation;

(*b*) of a major incapacity allowance shall be the corresponding disablement pension rate less the amount of the recipient's workmen's compensation and less the amount of his basic allowance, if any;

(*c*) of a lesser incapacity allowance shall not exceed £7·00.

(7) The periods referred to in the foregoing provisions of this section are—

(*a*) any period during which the person claiming or receiving an allowance under this section—

(i) being or having been entitled to his workmen's compensation in respect of any injury or disease, is as a result of that injury or disease totally incapable of work and likely to remain so incapable for a considerable period; or

(ii) being or having been entitled to his workmen's compensation in respect of two or more injuries or diseases, is as the joint result of those injuries or diseases totally incapable of work and likely to remain so incapable for a considerable period;

(*b*) any period which, not being a period such as is mentioned in paragraph (*a*), is a period of total or partial incapacity for work resulting from the relevant injury or disease.

Provisions supplementary to s. 2.

3.—(1) For the purposes of section 2 of this Act—

(*a*) the expressions "relevant accident" and "relevant injury or disease" mean the accident in consequence of which or, as the case may be, the injury or disease in respect of which, an entitlement to weekly payments by way of workmen's compensation arose;

(*b*) any reference to the happening of an accident shall, in relation to a case of disease, be construed in the same way as for the purposes of the Workmen's Compensation Acts;

(*c*) a payment—

1917 c. 42. 1919 c. 83.

(i) under the Workmen's Compensation (War Addition) Acts 1917 and 1919; or

1940 c. 18 (N.I.). 1943 c. 13 (N.I.).

(ii) under the Workmen's Compensation (Supplementary Allowances) Act (Northern Ireland) 1940 as amended by the Workmen's Compensation (Temporary Increases) Act (Northern Ireland) 1943,

shall be treated as a weekly payment by way of workmen's compensation.

(2) For the purposes of section 2(1), a person shall be deemed to be or have been entitled to weekly payments by way of workmen's compensation at any time if he would be or, as the case may be, have been so entitled at that time if—

(*a*) the amount of any payment, allowance or benefit received by him otherwise than by way of workmen's compensation; or

(*b*) where the relevant accident happened before 1st January 1924, either the said amount, or the amount he is earning or able to earn in some suitable employment or business, or both those amounts,

were sufficiently reduced.

(3) Subject to subsection (7) below, for the purpose of the reference in section 2(7)(*b*) to a period of total incapacity for work resulting from the relevant injury or disease, a person who is or has been unable to obtain employment shall be treated as subject to such an incapacity if he is treated as being so for the purposes of his workmen's compensation in respect of the relevant injury or disease and in such other circumstances as may be provided by the regulations.

(4) Any reference in section 2 or this section to the amount of a person's workmen's compensation shall (subject to subsections (5) to (7) below) be taken as referring to the amount, if any, of the weekly payments to which for the time being he is, or

would but for the determination of his right be, entitled in respect of the relevant injury or disease so, however, that—

(*a*) where in fixing the amount of those weekly payments under the provisions relating thereto regard was had to any payment, allowance or benefit which he might receive during the period of his incapacity from the person liable for the compensation, and the amount is shown to have been reduced in consequence, the amount of those weekly payments shall for the purposes of this subsection be taken to be the reduced amount so fixed with the addition of the amount of the reduction; and

(*b*) where the amount of those weekly payments has not been fixed under the said provisions, it shall be fixed for the purposes of this subsection without regard to any such payment, allowance or benefit as aforesaid.

(5) The regulations may include provision that, in such special circumstances or cases and for such purposes as may be specified in the regulations, any reference in section 2 or this section to the amount of a person's workmen's compensation shall be taken as referring to such amount as it may be determined in manner provided by the regulations ought reasonably and properly to have been the amount of the weekly payments referred to in subsection (4) of this section.

(6) Where a person is, or has at any time after 23rd July 1951 been, entitled to payments under the enactments referred to in subsection (1)(*c*)(i) or (ii) of this section but ceased before 24th July 1951 to be entitled to any other weekly payments by way of workmen's compensation in respect of the relevant injury or disease, the amount of his workmen's compensation shall for the purposes of section 2 be calculated as if he had not ceased to be entitled to such other payments.

(7) The regulations may provide for modifying the operation of subsections (3) to (5) of this section in relation to a person whose workmen's compensation is or was compensation under a contracting-out scheme in such manner as appears to the Department to be proper having regard to the provisions of the contracting-out scheme.

Provisions as to the regulations.

4.—(1) The regulations may make such incidental or supplementary provision as appears to the Department to be necessary or expedient for the purposes of section 2 of this Act.

(2) The regulations shall in particular make provision—

(*a*) for enabling claims for or in respect of allowances to be made to the Department in such manner as the regulations may provide;

(*b*) for the determination by the Department of questions arising on or in connection with any such claims or on or in connection with the regulations and for conferring a right of appeal from any decision of the Department on any such question to a Commissioner;

(*c*) for the review of such decisions in such circumstances and in such manner as the regulations may provide.

(3) Without prejudice to the generality of subsection (1) above, the regulations may make provision—

(*a*) for enabling any class or description of such questions as is mentioned in subsection (2)(*b*) to be determined as if they had arisen under the Social Security Act;

(*b*) as to the procedure to be followed in connection with the consideration and determination of claims and questions by the Department and the Commissioner;

(*c*) for applying, with or without modifications, section 87(1) and (2) of the Social Security Act (benefit to be inalienable) or any regulations made under section 81(1), (2) or (4)(*b*), (*c*) or (*e*) of that Act (payment of benefit), or for making provision corresponding thereto;

(*d*) for requiring persons claiming or receiving allowances to furnish information and evidence and to undergo medical or other examination;

(*e*) for requiring repayment to the National Insurance Fund in whole or in part of payments under this Act subsequently found not to have been due, for the deduction of any sums so required to be repaid from payments under this Act or by way of industrial injuries benefit under the Social Security Act, and for the deduction from payments under this Act of any sums which may by virtue of any provision of that Act be recovered by deduction from any payment by way of such benefit.

(4) Subject to any provisions of the regulations for reviewing decisions, the decision in accordance with the regulations of any question arising under the regulations shall be final for the purposes of this Act.

(5) Regulations under section 2 varying earlier regulations may do so in such a way as to make allowances payable, or payable at an increased rate, under the earlier regulations in respect of periods before the making of the later regulations.

(6) The Department may make such payments in connection with the administration of the regulations (including payments

on account of travelling expenses or loss of remunerative time or both to persons required to undergo medical or other examination or to attend any hearing for the purpose of determining questions arising under the regulations) as it may, with the consent of the Department of Finance, determine.

(7) Notwithstanding anything in this Act, the regulations shall not require a person to submit himself to medical treatment.

(8) The regulations shall be made by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958; and section 17(5) of the Interpretation Act (Northern Ireland) 1954 (power to make different provisions for different cases, etc.) applies to the power to make the regulations as if they were a statutory instrument within the meaning of that Act. 1958 c. 18 (N.I.). 1954 c. 33 (N.I.).

5.—(1) The regulations may include provision for adjusting the rate of, or extinguishing any right to, an allowance under section 2 of this Act in a case where the same person is, or would otherwise be, entitled separately in respect of two or more injuries or diseases to an allowance under that section. Adjustment of benefit in certain cases.

(2) Where, immediately before 10th May 1966, a person was receiving payments by way of one or more allowances under the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1951 or the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1956 of a greater amount or aggregate amount than, but for the provisions of this subsection, he would be entitled to receive on or after the commencement of this Act by way of allowances under this Act, he shall continue to be entitled to that greater amount or aggregate amount for any period after the commencement of this Act for which he would have so continued if the Supplementation Act and this Act had not been passed. 1951 c. 16 (N.I.). 1956 c. 9 (N.I.).

(3) Any sum due from a person by virtue of any provision made by or under this Act may be recovered from him by deduction from any payment under this Act or from benefit under the Social Security Act.

6.—(1) If any person, for the purpose of obtaining any allowance or payment under this Act, whether for himself or some other person— Offences, penalties, etc.

(*a*) knowingly makes a false statement or false representation; or

(*b*) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be liable on summary conviction to a fine not exceeding £100, or to imprisonment for a term not exceeding 3 months, or to both.

(2) The regulations may provide for the recovery on summary conviction of monetary penalties in respect of an offence under this Act, being a contravention of or failure to comply with a provision of the regulations, so, however, that such penalties shall not exceed £10 for each offence or, where the offence consists in continuing any such contravention or failure after conviction thereof, £10 together with a further £10 for each day on which it is so continued.

(3) Nothing in this section shall be construed as preventing the Department from recovering by means of civil proceedings any sums due to the National Insurance Fund.

(4) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within 12 months after the commission of the offence.

(5) In any proceedings for an offence under this Act, the wife or husband of the accused shall be competent to give evidence against the accused but—

(*a*) the wife or husband shall not be compellable either to give evidence or in giving evidence to disclose any communication made to her or him by the accused during the marriage; and

(*b*) nothing in this subsection shall affect the competency of a wife or husband of any accused person to give evidence on behalf of that person.

Exemption from stamp duty.

7. Stamp duty shall not be chargeable upon such documents used in connection with business under this Act as may be specified in the regulations.

Reciprocal arrangements with Great Britain.

8.—(1) The Head of the Department may, with the consent of the Department of Finance, make reciprocal arrangements for payments under this Act to be made in Great Britain out of the same fund as payments under any corresponding legislation for the time being in force in Great Britain, and for payments under that legislation to be made in Northern Ireland out of the National Insurance Fund, and for making any necessary financial adjustments between the two funds resulting from the arrangements.

(2) In relation to payments out of the National Insurance Fund by virtue of any such arrangements, section 6(1) of this Act and, to such extent and subject to such modifications as may be provided by the regulations, any provisions of the regulations shall apply as if they were payments under this Act.

Interpretation.

9.—(1) In this Act, except where the context otherwise requires,—

"corresponding disablement pension rate" means the weekly rate for the time being of a pension payable under section 57(6) of the Social Security Act in respect of an assessment of 100 per cent.;

"the Department" means the Department of Health and Social Services for Northern Ireland;

"the Department of Finance" means the Department of Finance for Northern Ireland;

"enactment" includes an enactment of the Parliament of Northern Ireland and an enactment of the Northern Ireland Assembly and "Act" shall be construed accordingly;

"the regulations" has the meaning given by section 2(1);

"the Social Security Act" means the Social Security (Northern Ireland) Act 1975; 1975 c. 15.

"the Supplementation Act" means the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966; 1966 c. 14 (N.I.).

"workmen's compensation" means compensation under any of the Workmen's Compensation Acts or under any contracting-out scheme duly certified under any of those Acts;

"the Workmen's Compensation Acts" means the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943, or the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927, or the enactments repealed by the Workmen's Compensation Act 1906; 1927 c. 16 (N.I.). 1906 c. 58.

and unless the context otherwise requires other expressions defined in the Social Security Act have the same meanings as in that Act.

(2) For the purposes of this Act—

(*a*) a period shall be treated as considerable if it lasts or can be expected to last for not than thirteen weeks;

(*b*) a person may be treated as being, as the result of an injury or disease or as the joint result of two or more injuries or diseases, totally incapable of work and likely to remain so incapable for a considerable period notwithstanding that the disability resulting from the injury or disease or, as the case may be, from the injuries or diseases taken together is not such as to prevent him from being capable of work, if it is likely to prevent his earnings (including any remuneration or profit derived from a gainful occupation) exceeding £104 a year.

(3) Except where the context otherwise requires, any reference in this Act to any enactment for the time being in force in Northern Ireland shall be construed as a reference to that enactment as for the time being amended by or under any other enactment.

(4) References in this Act to enactments of the Parliament of the United Kingdom shall, unless the context otherwise requires, be construed as references to those enactments as they apply in Northern Ireland.

Citation, extent and commencement.

10.—(1) This Act may be cited as the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975.

(2) This Act extends to Northern Ireland only.

1975 c. 18.

(3) Subject to section 3(5) of the Social Security (Consequential Provisions) Act 1975, this Act comes into force on 6th April 1975.