

STATUTORY INSTRUMENTS

1997 No. 1183

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

Introductory

Cases in which this Order applies

3.—(1) This Order applies in cases where—

- (a) a person makes a payment (whether on his own behalf or not) to or in respect of any other person in consequence of any accident, injury or disease suffered by the other, and
- (b) any listed benefits have been, or are likely to be, paid to or for the other during the relevant period in respect of the accident, injury or disease.

(2) The reference in paragraph (1)(a) to a payment in consequence of any accident, injury or disease is to a payment made—

- (a) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the accident, injury or disease, ^{F1}...
- (b) in pursuance of a compensation scheme for motor accidents^{F2}, or
- (c) under the Diffuse Mesothelioma Payment Scheme (established under the Mesothelioma Act 2014);]

but does not include a payment mentioned in Part I of Schedule 1.

(3) Paragraph (1)(a) applies to a payment made—

- (a) voluntarily, or in pursuance of a court order or an agreement, or otherwise, and
- (b) in the United Kingdom or elsewhere.

(4) In a case where this Order applies—

- (a) the “injured person” is the person who suffered the accident, injury or, disease,
- (b) the “compensation payment” is the payment within paragraph (1)(a), ad
- (c) “recoverable benefit” is any listed benefit which has been or is likely to be paid as mentioned in paragraph (1)(b).

F1 Word in art. 3(2)(a) omitted (31.3.2014) by virtue of Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 11(a); S.I. 2014/459, art. 3(c)

F2 Art. 3(2)(c) and preceding word inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 11(b); S.I. 2014/459, art. 3(c)

[^{F3}Lump sum payments: regulation-making power

3A.—(1) The Department may by regulations make provision about the recovery of the amount of a payment to which paragraph (2) applies (a “lump sum payment”) where—

Changes to legislation: *The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, Cross Heading: Introductory is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) a compensation payment in consequence of a disease is made to or in respect of a person (“P”) to whom, or in respect of whom, a lump sum payment has been, or is likely to be, made, and
 - (b) the compensation payment is made in consequence of the same disease as the lump sum payment.
- (2) This paragraph applies to—
- (a) a payment made in accordance with the Pneumoconiosis, etc. , (Workers' Compensation) (Northern Ireland) Order 1979 (in this Article referred to as “ the 1979 Order ”);
 - (b) a payment made in accordance with the Mesothelioma, etc., Act (Northern Ireland) 2008,^{F4} ...
 - (c) an extra-statutory payment (within the meaning given by paragraph (5)(d))^{F5}, and
 - (d) a payment under the Diffuse Mesothelioma Payment Scheme (established under the Mesothelioma Act 2014),
- (but this paragraph does not apply to a payment within sub-paragraph (d) in a case where the compensation payment is itself such a payment).]
- (3) Regulations under this Article may, in particular—
- (a) make provision about the recovery of the amount of a lump sum payment made to or in respect of a dependant of P;
 - (b) make provision enabling the recovery of the amount of a lump sum payment from a compensation payment (including provision enabling the recovery of an amount which reduces the compensation payment to nil);
 - (c) enable the amount of a lump sum payment made before commencement to be recovered from a compensation payment made after commencement;
 - (d) make provision about certificates in respect of lump sum payments;
 - (e) apply any provision of this Order, with or without modifications.
- (4) References in paragraph (1) to a payment made in consequence of a disease—
- (a) are references to a payment made [^{F6}as specified in Article 3(2)(a) or (c)] in respect of the disease, but
 - (b) do not include references to a payment mentioned in Part 1 of Schedule 1.
- (5) In this Article—
- (a) “ commencement ” means the date on which this Article comes into operation,
 - (b) “ compensation payment ” means a payment within Article 3(1)(a),
 - (c) “ dependant ” has the meaning given by Article 5 of the 1979 Order, and
 - (d) “ extra-statutory payment ” means a payment made by the Department to or in respect of a person following the rejection by the Department of a claim under the 1979 Order.]

F3 Art. 3A inserted (27.8.2008 for certain purposes otherwise 1.10.2008) by Mesothelioma, etc., [Act \(Northern Ireland\) 2008 \(c. 9\)](#), **ss. 8, 12(1)**; S.R. 2008/351, **art. 2(1)**, Sch.

F4 Word in [art. 3A\(2\)\(b\)](#) omitted (31.3.2014) by virtue of [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), **Sch. 1 para. 18(2)(a)**; S.I. 2014/459, **art. 3(c)**

F5 [Art. 3A\(2\)\(d\)](#) and words inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), **Sch. 1 para. 18(2)(b)**; S.I. 2014/459, **art. 3(c)**

F6 Words in [art. 3A\(4\)\(a\)](#) substituted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), **Sch. 1 para. 18(3)**; S.I. 2014/459, **art. 3(c)**

Compensation payments to which this Order applies

4. This Order applies in relation to compensation payments made on or after the day on which this Article comes into operation, unless they are made in pursuance of a court order or agreement made before that day.

“The relevant period”

5.—(1) In relation to a person (“the claimant”) who has suffered any accident, injury or disease, “the relevant period” has the meaning given by the following paragraphs.

(2) Subject to paragraph (4), if it is a case of accident or injury, the relevant period is the period of five years from the day on which the accident or injury in question occurred.

(3) Subject to paragraph (4), if it is a case of disease, the relevant period is the period of five years beginning with (and including) the date on which the claimant first claims a listed benefit in consequence of the disease.

(4) If at any time before the end of the period referred to in paragraph (2) or (3)—

- (a) a person makes a compensation payment in final discharge of any claim made by or in respect of the claimant and arising out of the accident, injury or disease, or
- (b) an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of any such claim,

the relevant period ends at that time.

Changes to legislation:

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Changes and effects yet to be applied to :

- power to am. (prosp.) by [1998 c. 47 s.87](#)