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STATUTORY INSTRUMENTS

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**1997 No. 1183**

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

*Miscellaneous*

**Amounts overpaid under Article 8**

**22.**—(1) Regulations may make provision (including provision modifying this Order) for cases where a person has paid to the Department under Article 8 any amount ( “the amount of the overpayment”) which he was not liable to pay.

(2) The regulations may provide—

- (a) for the Department to pay the amount of the overpayment to that person, or to the person to whom the compensation payment is made, or partly to one and partly to the other, or
- (b) for the receipt by the Department of the amount of the overpayment to be treated as the recovery of that amount.

(3) Regulations made by virtue of paragraph (2)(b) are to have effect in spite of anything in section 69 of the Administration Act (overpayments – general).

(4) The regulations may also (among other things) provide—

- (a) for the re-calculation in accordance with Article 10<sup>[F1]</sup> or 10A] of the amount of any compensation payment,
- (b) for giving credit for amounts already paid, and
- (c) for the payment by any person of any balance or the recovery from any person of any excess.

(5) This Article does not apply in a case where Article 16 applies.

**F1** Words in art. 22(4)(a) inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), [Sch. 1 para. 16](#); [S.I. 2014/459](#), art. 3(c)

**Compensation payments to be disregarded**

**23.**—(1) If, when a compensation payment is made, the first and second conditions are met, the payment is to be disregarded for the purposes of Articles 8 and 10<sup>[F2]</sup> or 10A].

(2) The first condition is that the person making the payment—

- (a) has made an application for a certificate of recoverable benefits which complies with paragraph (3), and
- (b) has in his possession a written acknowledgement of the receipt of his application.

(3) An application complies with this paragraph if it—

- (a) accurately states the prescribed particulars relating to the injured person and the accident, injury or disease in question, and

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**Changes to legislation:** The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 24 August 2023. 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

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- (b) specifies the name and address of the person to whom the certificate is to be sent.
- (4) The second condition is that the Department has not sent the certificate to the person, at the address, specified in the application, before the end of the period allowed under Article 6.
- (5) In any case where—
  - (a) by virtue of paragraph (1), a compensation payment is disregarded for the purposes of Articles 8 and 10<sup>F3</sup> or 10A], but
  - (b) the person who made the compensation payment nevertheless makes a payment to the Department for which (but for paragraph (1)) he would be liable under Article 8,
 paragraph (1) is to cease to apply in relation to the compensation payment.
- (6) If, in the opinion of the Department, circumstances have arisen which adversely affect normal methods of communication—
  - (a) the Department may by order provide that paragraph (1) is not to apply during a specified period not exceeding three months, and
  - (b) the Department may continue any such order in force for further periods not exceeding three months at a time.

**F2** Words in art. 23(1) inserted (31.3.2014) by virtue of [Mesothelioma Act 2014 \(c. 1\), s. 19\(1\), Sch. 1 para. 16](#); S.I. 2014/459, art. 3(c)

**F3** Words in art. 23(5)(a) inserted (31.3.2014) by virtue of [Mesothelioma Act 2014 \(c. 1\), s. 19\(1\), Sch. 1 para. 16](#); S.I. 2014/459, art. 3(c)

### Liability of insurers

- 24.**—(1) If a compensation payment is made in a case where—
- (a) a person is liable to any extent in respect of the accident, injury or disease, and
  - (b) the liability is covered to any extent by a policy of insurance,
- the policy is also to be treated as covering any liability of that person under Article 8.
- (2) Liability imposed on the insurer by paragraph (1) cannot be excluded or restricted.
  - (3) For that purpose excluding or restricting liability includes—
    - (a) making the liability or its enforcement subject to restrictive or onerous conditions,
    - (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy, or
    - (c) excluding or restricting rules of evidence or procedure.
  - (4) Regulations may in prescribed cases limit the amount of the liability imposed on the insurer by paragraph (1).
  - (5) This Article applies to policies of insurance issued before (as well as those issued after) its coming into operation.
  - (6) References in this Article to policies of insurance and their issue include references to contracts of insurance and their making.

### Provision of information

- 25.**—(1) Where compensation is sought in respect of any accident, injury or disease suffered by any person (“the injured person”), the following persons shall give the Department the prescribed information about the injured person—
- (a) anyone who is, or is alleged to be, liable in respect of the accident, injury or disease, and

(b) anyone acting on behalf of such a person.

(2) A person who receives or claims a listed benefit which is or is likely to be paid in respect of an accident, injury or disease suffered by him, shall give the Department the prescribed information about the accident, injury or disease.

(3) Where a person who has received a listed benefit dies, the duty in paragraph (2) is imposed on his personal representative.

(4) Any person who makes a payment (whether on his own behalf or not)—

(a) in consequence of, or

(b) which is referable to any costs incurred by reason of,

any accident, injury or disease, or any damage to property, shall, if the Department requests him in writing to do so, give the Department such particulars relating to the size and composition of the payment as are specified in the request.

(5) The employer of a person who suffers or has suffered an accident, injury or disease, and anyone who has been the employer of such a person at any time during the relevant period, shall give the Department the prescribed information about the payment of statutory sick pay in respect of that person.

(6) In paragraph (5) “employer” has the same meaning as it has in Part XI of the Contributions and Benefits Act.

[<sup>F4</sup>(6A) The following persons must give the Department the prescribed information for the purposes of this Order—

(a) the scheme administrator of the Diffuse Mesothelioma Payment Scheme, and

(b) any person providing services to the scheme administrator.]

(7) A person who is required to give information under this Article shall do so in the prescribed manner, at the prescribed place and within the prescribed time.

(8) Article 3 does not apply in relation to this Article.

**F4** [Art. 25\(6A\)](#) inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), [Sch. 1 para. 20](#); [S.I. 2014/459](#), art. 3(c)

## Power to amend Schedule 2

**26.—**(1) The Department may by regulations amend Schedule 2.

(2) Regulations made under paragraph (1) shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

**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](#)