
STATUTORY INSTRUMENTS

2006 No. 1944

**The Recovery of Health Services
Charges (Northern Ireland) Order 2006**

Miscellaneous and general

Regulations governing lump sums, periodical payments etc.

- 15.**—(1) Regulations may make provision (including provision modifying this Order)—
- (a) for cases to which Article 3(2) applies in which two or more compensation payments in the form of lump sums are made by the same person in respect of the same injury,
 - (b) for cases to which Article 3(2) applies in which an agreement is entered into for the making of—
 - (i) periodical compensation payments (whether of an income or capital nature), or
 - (ii) periodical compensation payments and lump sum compensation payments,
 - (c) for cases in which the compensation payment to which Article 3(2) applies is an interim payment of damages which a court orders to be repaid.
- (2) Regulations made by virtue of paragraph (1)(a) may (among other things) provide—
- (a) for giving credit for amounts already paid, and
 - (b) for the payment by any person of any balance or the recovery from any person of any excess.
- (3) Regulations may make provision modifying the application of this Order in relation to cases in which a payment into court is made and, in particular, may provide—
- (a) for the making of a payment into court to be treated in prescribed circumstances as the making of a compensation payment,
 - (b) for application for, and issue of, certificates.

Liability of insurers

- 16.**—(1) If a compensation payment is made in a case where—
- (a) a person is liable to any extent in respect of the injury, 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 3(2).
- (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 in relation to policies of insurance issued before (as well as those issued after) the date on which it comes into operation.

(6) References in this Article to policies of insurance and their issue include references to contracts of insurance and their making.

Power to apply this Order to treatment at non-health services hospitals

17.—(1) Regulations may make provision for this Order to apply, with such modifications as may be prescribed, if—

- (a) a person makes a compensation payment as mentioned in Article 3(1)(a), but
- (b) the person to or in respect of whom the payment is made has—
 - (i) received treatment as a result of the injury at a qualifying hospital under a health services arrangement,
 - (ii) been provided with health services ambulance services as a result of the injury for the purpose of taking him to a qualifying hospital for treatment under a health services arrangement (unless he was dead on arrival at that hospital), or
 - (iii) received treatment as mentioned in head (i) and been provided with health services ambulance services as mentioned in head (ii),

(subject to paragraph (2)).

(2) Paragraph (1)(b) does not apply where the person to or in respect of whom the payment is made receives, or is taken to a hospital for, treatment which would be provided as mentioned in subparagraph (a) or (c) of Article 3(7) if it were provided at a health services hospital.

(3) In paragraph (1), “health services arrangement” means an arrangement or agreement between—

- (a) the hospital in question or a body responsible for it, and
- (b) a Health and Social Services Board or an HSS trust.

(4) In this Article “qualifying hospital” means a hospital which is not a health services hospital.

The Crown

18. This Order binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

Regulations and orders

19.—(1) Regulations under Article 3(10) or the first regulations under Article 5(2) may not be made unless a draft has been laid before and approved by resolution of the Assembly.

(2) Any other regulations or orders made by the Department of Health, Social Services and Public Safety under this Order (except an order under Article 1) shall be subject to negative resolution.

(3) Regulations or orders under this Order may make—

- (a) supplementary, incidental or consequential provision,
- (b) transitory, transitional or saving provision.

Supplementary and consequential provision

20.—(1) The Department of Health, Social Services and Public Safety may by order make—

- (a) such supplementary, incidental or consequential provision, or
- (b) such transitory, transitional or saving provision,

as it considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Order.

(2) The provision which may be made under paragraph (1) includes provision amending or repealing any statutory provision, instrument or document.

Repeals and transitional provisions

21.—(1) The statutory provisions mentioned in Schedule 2 are repealed to the extent specified in the second column of that Schedule.

(2) The repeal by this Order of Part II of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3) does not affect the operation of that Part in relation to any injury which occurs before the date on which this Article comes into operation.