

1986 No. 151

HEALTH AND PERSONAL SOCIAL SERVICES**The Health and Personal Social Services (Injury Benefits)
(Amendment) Regulations (Northern Ireland) 1986**

<i>Made</i>	28th May 1986
<i>Coming into operation</i>	9th July 1986

The Department of Health and Social Services, in exercise of the powers conferred by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to it to be appropriate and with the consent of the Department of Finance and Personnel for Northern Ireland(b), hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Health and Personal Social Services (Injury Benefits) (Amendment) Regulations (Northern Ireland) 1986 and shall come into operation on 9th July 1986.

Interpretation

2. In these regulations “the principal regulations” means the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 1975(c).

Amendment of regulation 2 of the principal regulations

3. In regulation 2(1) of the principal regulations (definitions)—

- (a) in the definition of “the superannuation regulations” for “the Health Services (Superannuation) Regulations (Northern Ireland) 1962”, there shall be substituted “the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984(d)”;
- (b) in the definition of “average remuneration” for “regulation 12(4)” and “regulation 29(1)” there shall be substituted respectively “regulation 11(5)” and “regulation 33(1)” and for “provisos (f) and (h)” there shall be substituted “provisos (f) and (g)”.

Amendment of regulation 3 of the principal regulations

4. In regulation 3 of the principal regulations (persons to whom the regulations apply)—

- (a) in paragraph (1) for “either—” to the end there shall be substituted “sustains an injury, or contracts a disease, to which paragraph (1A) applies.”;
- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) This paragraph applies to an injury which is sustained, and to a disease which is contracted, in the course of the person’s employment and which is attributable to his employment and also to any other injury sustained (and similarly to any other disease contracted) if—

(a) S.I. 1972/1073 (N.I. 10)

(b) Formerly the Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3

(c) S.R. 1975 No. 85

(d) S.R. 1984 No. 336

- (a) it is attributable to the duties of his employment;
- (b) it is sustained while, as a volunteer at an accident or emergency, he is providing health services which his professional training and code of conduct would require him to volunteer; or
- (c) it is sustained while he is travelling as a passenger in a vehicle to or from his place of employment with the permission of the employing authority and if in addition—
 - (i) he was under no obligation to the employing authority to travel in the vehicle but, if he had been, the injury would have been sustained in the course of, and have been attributable to, his employment, and
 - (ii) at the time of the injury the vehicle was being operated, otherwise than in the ordinary course of a public transport service, by or on behalf of the employing authority or by some other person by whom it was provided in pursuance of arrangements made with the authority.”.

Amendment of regulation 4 of the principal regulations

5.—(1) Regulation 4 of the principal regulations (scale of benefit) shall be amended in accordance with this regulation.

(2) In paragraph (6) (statutory benefits to be taken into account in assessing scale of certain benefits)—

(a) sub-paragraph (b)(i) shall be omitted;

(b) in sub-paragraph (b)(ii)—

(i) for “section 12 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966” there shall be substituted “section 57 of the Social Security (Northern Ireland) Act 1975(a)”;

(ii) in (A) for “section 13” there shall be substituted “section 58” and for “so, however,” to the end of the sub-paragraph there shall be substituted “excluding any increase in that supplement under section 59 of that Act,”;

(iii) in (B) for “section 14” there shall be substituted “section 60”;

(iv) in (C) for “section 17 or 18” there shall be substituted “section 64 or 66”, and

(v) in (D) “and dependants” shall be omitted and for “section 16, 17 or 18” there shall be substituted “section 62”;

(c) for sub-paragraph (b)(iii) there shall be substituted the following—

“(iii) any sickness benefit payable under section 14 of the Social Security (Northern Ireland) Act 1975 (including benefit payable by reason of section 50A of that Act**(b)**) in respect of the injury or disease together with any increase therein payable under sections 41 to 48 of that Act (dependants),

(iv) any invalidity pension payable under section 15 of the Social Security (Northern Ireland) Act 1975 in respect of the injury or disease together with any increase in that pension payable under sections 41 to 48 of that Act (dependants),

(v) any severe disablement allowance payable under section 36 of the Social Security (Northern Ireland) Act 1975(c) in respect of the injury

(a) 1975 c. 15

(b) Section 50A was added by Article 39(4) of the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))

(c) Section 36 was substituted by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1157 (N.I. 7))

or disease together with any increase payable under section 49 of that Act (dependants).”.

(3) In paragraph (8) for “regulation 65” there shall be substituted “regulation 72”.

Amendment of regulation 7 of the principal regulations

6. In regulation 7(1) of the principal regulations (widow's or widower's allowance)—

- (a) in sub-paragraph (b)(i) for “section 19 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966” there shall be substituted “section 67 of the Social Security (Northern Ireland) Act 1975” and for “the National Insurance Act (Northern Ireland) 1966” there shall be substituted “section 26 of that Act”;
- (b) in sub-paragraph (b)(ii) for “section 20 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966” there shall be substituted “section 69 of that Act” and for “Article 3 of the Social Services (Parity) Order (Northern Ireland) 1971” there shall be substituted “section 15 of that Act”.

Amendment of regulations 8 and 9 of the principal regulations

7. In regulations 8(3) (child's allowance) and 9(1)(b) (dependent relative's allowance) of the principal regulations for “16 years” there shall, in each place those words occur, be substituted “17 years”.

Amendment of regulation 12 of the principal regulations

8. In regulation 12(3) of the principal regulations (incidental provisions) for “regulation 65” there shall be substituted “regulation 72”.

Amendment of regulation 13 of the principal regulations

9. In regulation 13(4) of the principal regulations (review and adjustment of allowance) for “regulation 32” there shall, in each place those words occur, be substituted “regulation 36”.

Amendment of regulation 15 of the principal regulations

10. In regulation 15(2)(b) of the principal regulations (damages) for “the Fatal Accidents Acts (Northern Ireland) 1846 to 1959” there shall be substituted “the Fatal Accidents (Northern Ireland) Order 1977(a)”.

Amendment of regulation 19 of the principal regulations

11. In regulation 19 of the principal regulations (payment to personal representatives)—

- (a) for “£500” there shall be substituted “£5,000, or such higher amount as would for the time being be applicable in relation to the death if these regulations were an enactment to which section 1 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967(b) (maximum amount disposable on death without representation) applied,”;
- (b) after “pay that sum” there shall be inserted “to personal representatives or”;
- (c) the words from “, or in the case of illegitimacy” to “may think fit” shall be omitted.

(a) S.I. 1977/1251 (N.I. 18)

(b) 1967 c. 5 (N.I.)

Amendment of regulation 22 of the principal regulations

12. In regulation 22(2)(c) of the principal regulations (revocation) for “regulation 32” there shall, in each place those words occur, be substituted “regulation 36”.

Application and retrospective effect of regulations

13.—(1) Regulation 4(a) and (b) of these regulations shall have effect from 25th May 1972 and regulation 11(a) from 1st March 1985.

(2) In relation to any case where before these regulations come into operation an injury was sustained, or disease contracted, by reason of which any benefit is or may become payable under the principal regulations—

- (a) regulation 5(2)(c) of these regulations shall not apply;
- (b) neither regulation 4(a) and (b) nor regulation 7 of these regulations shall apply if the effect of its application would be to place a person in a worse position in relation to any benefit which was, is or may become payable under the principal regulations to or in respect of him;
- (c) nothing in any other provision of these regulations (other than regulation 11(a)) shall affect entitlement to or the amount of any benefit payable under the principal regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 28th May 1986.

(L.S.)

H. P. Simpson

Assistant Secretary

The Department of Finance and Personnel for Northern Ireland hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 28th May 1986.

(L.S.)

J. R. Ingram

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 1975 ("the 1975 Regulations"). They bring up to date certain statutory and other references and make a number of other amendments.

Regulations 3, 6, 8, 9, 10 and 12 bring up to date references in the 1975 Regulations.

Regulation 4 amends regulation 3 of the 1975 Regulations, in particular to clarify and extend the injuries and diseases to which the 1975 Regulations apply, namely injuries sustained and diseases contracted in the course of, and attributable to, the person's employment and also where the injury or disease is attributable to the duties of the employment, where volunteer services are provided at an accident or emergency, and in certain cases of travel as an authorised passenger of an employing authority (regulation 4(a) and (b)). Under powers conferred by section 14(1) of the Superannuation (Northern Ireland) Order 1972 these amendments have effect from 25th May 1972 (regulation 13(1)).

Regulation 5 amends regulation 4 of the 1975 Regulations, in particular it brings up to date or amends references to statutory benefits which are deductible from injury benefits payable under the regulations.

Regulation 7 alters from 16 to 17 the age limit for child's allowance and the qualifying age for dependent relative's allowance in regulations 8 and 9 respectively of the 1975 Regulations and regulation 11 amends regulation 19 of the 1975 Regulations (payment to personal representatives) in particular by increasing the maximum sum payable from £500 to £5,000 (or higher amount for the time being applicable).

Regulation 13, in accordance with Article 14(1) of the Superannuation (Northern Ireland) Order 1972, provides for regulation 4(a) and (b) to have effect from 25th May 1972 (the date from which the regulations which they amend have effect) and for regulation 11(a) to have effect from 1st March 1985 (the same date as that from which the Administration of Estates (Small Payments) (Increase of Limit) Order (Northern Ireland) 1985 (S.R. 1985 No. 9) has effect).