

SCHEDULE 1

Regulation 2(1)

Modification of certain provisions of the Order

In any case to which regulation 4 applies, the following provisions of the Order shall apply as if—

- (a) in Article 2(2) (interpretation)—
  - (i) the definitions of “benefit”, “compensation scheme for motor accidents” and “listed benefit” were omitted,
  - (ii) after the definition of “appeal tribunal”<sup>(1)</sup> there were inserted—

““certificate” means a certificate which includes amounts in respect of recoverable benefits and of recoverable lump sum payments, including where any of those amounts are nil;”,
  - (iii) after the definition of “the Department” there were inserted—

““the Lump Sum Payments Regulations” means the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008;”,
  - (iv) after the definition of “National Insurance Fund” there were inserted—

““P” is to be construed in accordance with regulation 5 of the Lump Sum Payments Regulations;”, and
  - (v) after the definition of “prescribed” there were inserted—

““recoverable lump sum payments” means any lump sum payments which are recoverable by virtue of regulation 4 of the Lump Sum Payments Regulations;”,
- (b) in Article 3(3) (cases in which this Order applies) for “Paragraph (1)(a)” there were substituted “Article 3A(1)(a)”;
- (c) in Article 12(2) (review of certificates of recoverable benefits)—
  - (i) in the heading and paragraph (1) “of recoverable benefits” were omitted, and
  - (ii) in paragraph (3) for “benefits” there were substituted “lump sum payments, except where that certificate has been reviewed under regulation 9ZA(1)(e) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (review of certificates of recoverable lump sum payments);”,
- (d) in Article 13(3) (appeals against certificates of recoverable benefits)—
  - (i) in the heading and paragraphs (1) and (2)(a) “of recoverable benefits” were omitted,
  - (ii) in paragraph (1)—
    - (aa) in sub-paragraph (a) “, rate or period” were omitted,
    - (bb) in sub-paragraph (b) for “listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or” there were substituted “lump sum payments which have been, or are likely to be, paid otherwise than in respect of the”,
    - (cc) in sub-paragraph (c) for “listed benefits which have not been, and are not likely to be, paid to the injured person during the relevant period” there were substituted “lump sum payments which have not been, and are not likely to be, paid to P”, and

(1) The definition of “appeal tribunal” was substituted by paragraph 119 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(2) Article 12 was amended by paragraph 120 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(3) Article 13 was amended by paragraph 121 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

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- (dd) in sub-paragraph (d) for “3(1)(a)” there were substituted “3A(1)(a)”,
- (iii) in paragraph (2)—
  - (aa) in sub-paragraph (aa) for “Article 9(2)(a)” there were substituted “regulation 11(2)(a) of the Lump Sum Payments Regulations”, and
  - (bb) in sub-paragraph (b) for “Article 10) the injured person” there were substituted “regulation 12 of the Lump Sum Payments Regulations) P”, and
- (iv) in paragraph (3)(b) for “Article 8” there were substituted “regulation 10 of the Lump Sum Payments Regulations”;
- (e) in Article 14(4) (reference to appeal tribunal)—
  - (i) in paragraph (3) “accident, injury or” were omitted, and
  - (ii) in paragraph (4)—
    - (aa) in sub-paragraph (a) for “amounts, rates and periods specified in the certificate of recoverable benefits” there were substituted “amount, type and date of payments specified in the certificate”, and
    - (bb) in sub-paragraph (c) “of recoverable benefits” were omitted,
- (f) in Article 15(2)(5) (appeal to Social Security Commissioner)—
  - (i) in sub-paragraph (b) “of recoverable benefits” were omitted,
  - (ii) in sub-paragraph (bb) for “Article 9(2)(a)” there were substituted “regulation 11(2) (a) of the Lump Sum Payments Regulations”, and
  - (iii) in sub-paragraph (c) for “Article 10) the injured person” there were substituted “regulation 12 of the Lump Sum Payments Regulations) P”;
- (g) in Article 16 (reviews and appeals: supplementary)—
  - (i) in paragraph (1) “of recoverable benefits” were omitted,
  - (ii) in paragraphs (2)(a) and (3)(a) for “Article 8” there were substituted “regulation 10 of the Lump Sum Payments Regulations”, and
  - (iii) in paragraph (4)(a) for “Article 10” there were substituted “regulation 12 of the Lump Sum Payments Regulations”;
- (h) for Article 17 (court orders) there were substituted—

#### **“Court orders**

17.—(1) This Article applies where a court makes an order for a compensation payment to be made in a case where a compensation payment is to be made to a dependant of P—

- (a) under the Fatal Accidents (Northern Ireland) Order 1977,
- (b) under the Fatal Accidents Act 1976,
- (c) to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976, or
- (d) in respect of P, where that dependant is an intended beneficiary of part or all of that compensation,

and a lump sum payment has been made to that dependant, unless the order is made with the consent of that dependant and the person by whom the payment is to be made.

- (2) The court must specify in the order the amount of the payment made—

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(4) Article 14 was amended by paragraph 122 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(5) Article 15 was amended by paragraph 123 of Schedule 6 the Social Security (Northern Ireland) Order 1998

- (a) under the Fatal Accidents (Northern Ireland) Order 1977,
- (b) under the Fatal Accidents Act 1976,
- (c) to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976, or
- (d) in respect of P, where a dependant of P is an intended beneficiary of part or all of that compensation,

which is attributable to each or any dependant of P who has received a lump sum payment.”;

- (i) in Article 19 (benefits irrelevant to the assessment of damages)—
  - (i) in the heading for “Benefits” there were substituted “Lump sum payments”, and
  - (ii) for “accident, injury or disease, the amount of any listed benefits” there were substituted “disease, the amount of any lump sum payments”;
- (j) in Article 20 (lump sum and periodical payments)—
  - (i) in paragraph (1) for “the injured person in consequence of the same accident, injury or” there were substituted “P in consequence of the same”,
  - (ii) in paragraph (2)(a) for “Article 10” there were substituted “regulation 12 of the Lump Sum Payments Regulations”,
  - (iii) for paragraph (3) there were substituted—
    - “(3) For the purposes of paragraph (2), the regulations may provide for—
      - (a) the gross amounts of the compensation payments to be aggregated and for the aggregate amount to be the gross amount of the compensation payment for the purposes of regulation 12 of the Lump Sum Payments Regulations, and
      - (b) for the amount of any lump sum payment to be taken to be the amount determined in accordance with the most recent certificate.”;
    - (iv) in paragraph (4) for “the injured person’s” there were substituted “P’s”; and
    - (v) in paragraph (5) sub-paragraph (a) were omitted;
- (k) in Article 21 (payments by more than one person)—
  - (i) in paragraph (1) for “injured person in consequence of the same accident, injury or” there were substituted “P in consequence of the same”,
  - (ii) in paragraph (2) for “Article 8 is not to exceed the total amount of the recoverable benefits” there were substituted “regulation 10 of the Lump Sum Payments Regulations is not to exceed the total amount of the recoverable lump sum payments”, and
  - (iii) in paragraph (3)—
    - (aa) in sub-paragraph (a) for “benefits” there were substituted “lump sum payments”, and
    - (bb) in sub-paragraph (b) for “Article 10” there were substituted “regulation 12 of the Lump Sum Payments Regulations”;
- (l) in Article 22 (amounts overpaid under Article 8)—
  - (i) in the heading and paragraph (1) for “Article 8” there were substituted “regulation 10 of the Lump Sum Payments Regulations”, and
  - (ii) in the paragraph (4)(a) for “Article 10” there were substituted “regulation 12 of the Lump Sum Payments Regulations”;

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- (m) in Article 23 (compensation payments to be disregarded)—
  - (i) in paragraphs (1) and (5)(a) for “Articles 8 and 10” there were substituted “regulations 10 and 12 of the Lump Sum Payments Regulations”,
  - (ii) in paragraph (2)(a) “of recoverable benefits” were omitted,
  - (iii) in paragraph (3)(a) for “the injured person and the accident, injury or” there were substituted “P and the”,
  - (iv) in paragraph (4) for “Article 6” there were substituted “regulation 8 of the Lump Sum Payments Regulations”, and
  - (v) in paragraph (5)(b) for “Article 8” there were substituted “regulation 10 of the Lump Sum Payments Regulations”;
- (n) in Article 24(1) (liability of insurers)—
  - (i) in sub-paragraph (a) “accident, injury or” were omitted, and
  - (ii) for “Article 8” there were substituted “regulation 10 of the Lump Sum Payments Regulations”;
- (o) in Article 25 (provision of information)—
  - (i) in paragraph (1)—
    - (aa) for “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” there were substituted “a disease suffered by P, the following persons shall give the Department the prescribed information about P”, and
    - (bb) in sub-paragraph (a) “accident, injury or” were omitted,
  - (ii) for paragraph (2) there were substituted—

“(2) Where P or a dependant of P, receives or claims a lump sum payment which is or is likely to be paid in respect of the disease suffered by P, the prescribed information about the disease must be given to the Department by P or a dependant of P, as the case may be.”,
  - (iii) in paragraph (3) for “listed benefit” there were substituted “lump sum payment”,
  - (iv) in paragraph (4) for “any accident, injury or disease, or any damage to property” there were substituted “a disease”, and
  - (v) paragraphs (5), (6) and (8) were omitted; and
- (p) in Schedule 1 (compensation payments)—
  - (i) in paragraph (2) for “the injured person” there were substituted “P”,
  - (ii) in paragraph (3)—
    - (aa) in sub-paragraph (a) for “accident, injury or disease suffered by the injured person” there were substituted “disease suffered by P”, and
    - (bb) in sub-paragraph (b) “accident, injury or” were omitted,
  - (iii) in paragraph 5(6) for sub-paragraph (1) there were substituted—

“(1) Any payment made to P or a dependant of P by an insurer under the terms of any contract of insurance entered into between P and the insurer before the date on which P or a dependant of P first claims a lump sum payment in consequence of the disease in question suffered by P.”;
  - (iv) in paragraph 6 for “an accident, injury or” there were substituted “a”, and

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(6) Paragraph 5 was amended by Article 554 of [S.I. 2001/3649](#)

(v) in paragraph 9—

- (aa) in sub-paragraph (1) for “Articles 8 and 10” there were substituted “regulations 10 and 12 of the Lump Sum Payments Regulations”, and
- (bb) in sub-paragraph (3)(a) for “injured person and in respect of the same accident, injury or” there were substituted “P and in respect of the same”.

## SCHEDULE 2

Regulation 3

### Consequential amendments

1. The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(7) shall be amended in accordance with paragraphs 2 to 6.

2. In regulation 1(2) (interpretation) after the definition of “limited capability for work”(8) insert—

““the Lump Sum Payments Regulations” means the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008;”.

3. After regulation 9 (certificates of recoverable benefits) insert—

#### **“Review of certificates of recoverable lump sum payments**

9ZA.—(1) A certificate of recoverable lump sum payments may be reviewed under Article 12 of the Recovery of Benefits Order where the Department is satisfied that—

- (a) a mistake (whether in the computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the lump sum payment recovered from a compensator who makes a compensation payment (as defined in Article 3A(5) of the Recovery of Benefits Order) is in excess of the amount due to the Department;
- (c) incorrect or insufficient information was supplied to the Department by the compensator who applied for the certificate and in consequence the amount of lump sum payment specified in the certificate was less than it would have been had the information supplied been correct or sufficient;
- (d) a ground for appeal is satisfied under Article 13 of the Recovery of Benefits Order or an appeal has been made under that Article; or
- (e) a certificate has been issued and, for any reason, a recoverable lump sum payment was not included in that certificate.

(2) In this regulation, in paragraph (b) of the definition of “party to the proceedings” in regulation 1(2) and in regulations 29, 31, 33, 36(2)(a)(ii) and 58(1), where applicable—

- (a) any reference to the Recovery of Benefits Order is to be construed as a reference to that Order as applied by regulation 2 of the Lump Sum Payments Regulations and, where applicable, as modified by Schedule 1 to those Regulations;
- (b) “lump sum payment” is a payment to which Article 3A(2) of the Recovery of Benefits Order applies;

(7) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2008 No. 286

(8) The definition of “limited capability for work” was inserted by regulation 22(2)(f) of S.R. 2008 No. 286

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- (c) “P” is to be construed in accordance with regulations 4(1)(a)(i) and 5 of the Lump Sum Payments Regulations.”
4. In regulation 29 (further particulars required relating to certificate of recoverable benefits appeals or applications)—
- (a) in the heading and paragraphs (1) and (6) after “recoverable benefits”, in each place where it occurs, insert “or, as the case may be, recoverable lump sum payments”, and
  - (b) in paragraph (2) after “Recovery of Benefits Order” insert “or, in the case of lump sum payments, regulation 13 of the Lump Sum Payments Regulations”.
5. In regulation 31(3) (time within which appeals are to be brought)—
- (a) after “recoverable benefits” insert “or, as the case may be, recoverable lump sum payments”,
  - (b) in sub-paragraph (a) at the end add “or, in the case of lump sum payments, regulation 10 of the Lump Sum Payments Regulations”, and
  - (c) for sub-paragraph (c) substitute—
    - “(c) where an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of a claim made by or in respect of—
      - (i) an injured person and arising out of the accident, injury or disease, or
      - (ii) P and arising out of the disease,not later than one month after the date of that agreement.”.
6. In regulation 33(1)(d) (making of appeals and applications) for “or, as the case may be, the subject of the application” substitute “, the certificate of recoverable lump sum payments or the subject of the application, as the case may be, ”.