
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 65

The Health and Personal Social Services (Superannuation),
Health and Social Care (Pension Scheme) and Health and
Personal Social Services (Injury Benefits) (Amendment and
Transitional Provisions) Regulations (Northern Ireland) 2009

PART 3

AMENDMENT OF THE HEALTH AND PERSONAL SOCIAL SERVICES
(INJURY BENEFITS) REGULATIONS (NORTHERN IRELAND) 2001

Amendment of the Injury Benefit Regulations

84. The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001⁽¹⁾ shall be amended as provided by regulations 85 to 88.

Amendment of regulation 4

85. In regulation 4 (Scale of benefits), for paragraph (6)(a) substitute—

- “(a) any pension payable to the person under a relevant pension scheme, disregarding any—
- (i) reduction in the amount of that pension under regulation 92 or 93 of the 1995 Regulations (Offset for crime, negligence or fraud and Loss of rights to benefits) or regulation 129, 130, 253 or 254 (Reduction in benefits in cases where loss caused by member’s crime, negligence or fraud and Forfeiture of right to benefits) of the 2008 Regulations,
 - (ii) reduction in the amount of that pension under regulation 13A(7), 17A or 49(5) (lump sum for members in serious ill-health, general option to exchange part of pension for lump sum and lump sum for deferred members in serious ill-health) of the 1995 Regulations or regulation 58, 59, 185 or 186 (General option to exchange part of pension for lump sum and option for members in serious ill-health to exchange whole pension for lump sum) of the 2008 Regulations, and
 - (iii) increase in the amount of that pension, under the Pensions (Increase) Act (Northern Ireland) 1971⁽²⁾, after the date at which the average remuneration used in the calculation of the allowance was calculated.”

Amendment of regulation 5

86. In regulation 5 (Recovery of costs), after paragraph (8) add—

(1) S.R. 2001 No. 367 as amended by S.R. 2005 Nos. 155, 533, 534 and 565; S.R. 2006 Nos. 159 and 410; S.R. 2008 No. 130
(2) 1971 c. 35 (N.I.)

“(9) Where a person has more than one employing authority, the Department may direct what proportion, if any, of the contribution due under this regulation shall be payable by each of those employing authorities.”.

Amendment of regulation 19A

87.—(1) Regulation 19A (Claims for benefits) is amended as provided by paragraphs (2) and (3).

(2) Before “A person claiming to be entitled”, insert “(4)”.

(3) Before the newly numbered paragraph (4), insert—

“(1) A person shall not be entitled to any benefit under these Regulations unless, in addition to any other conditions relating to that benefit being satisfied, that person makes a claim for it—

(a) in writing (or in such manner as the Department may from time to time accept); and

(b) within—

(i) 6 months commencing with the day on which the other conditions relating to the benefit in question are satisfied, or

(ii) such other longer period as the Department may from time to time accept.

(2) If during the whole or part of the period mentioned in paragraph (1)(b) the person—

(a) lacks capacity; or

(b) is prevented by fraud or concealment from discovering the facts entitling that person to apply for a benefit,

a claim may be made at any time before the end of the period of 6 months from the date on which that person no longer lacks capacity or, as the case may be, could with reasonable diligence have discovered those facts.

(3) A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment or of a disturbance in the functioning of his mind or brain.”.

Insertion of new regulation 22B

88. After regulation 22A (Decisions by employing authorities) insert—

“Notification requirements

22B.—(1) Where an employing authority makes a payment of a benefit pursuant to regulation 4(5), that employing authority shall—

(a) within 14 days of making such payment, provide the Department with—

(i) the full name and national insurance number of the person in respect of whom the payment is being made, and

(ii) the date on which that individual first became entitled to the benefit;

(b) within 14 days of making the last such payment, provide the Department with—

(i) the full name and national insurance number of the person in respect of whom the payment has been made,

(ii) the date on which that individual ceased to be entitled to the benefit, and

(iii) a statement of the total amount paid to the person pursuant to regulation 4(5) during that period of absence from employment.

(2) Where a person recovers any damages or compensation mentioned in regulation 18, that person shall, within 14 days of a right to and the amount of such damages or compensation finally being determined, provide written notice to the Department containing—

- (a) the person’s full name;
- (b) the person’s national insurance number; and
- (c) the total amount of damages or compensation recovered.

(3) Where a person fails to provide the notice provided by paragraph (2), no benefits shall be payable under these Regulations in respect of the period from the expiry of the 14th day mentioned in paragraph (2) until the date on which the notice is received by the Department, and where benefits have been paid to the person before the failure to give notice has been determined by the Department, the Department shall withhold all or part of any further benefits payable to the person under these Regulations until the amount of the payments made by the Department in respect of that period has been recovered.”.