

SCHEDULE 1

Regulation 2(1)

Modification of certain provisions of the Act

1. This Schedule applies to any case to which regulation 4 applies.
2. Where this Schedule applies, section 1 (cases in which this Act applies) is to apply as if in subsection (3), for “Subsection (1)(a)” there were substituted “Section 1A(1)(a)”.
3. Where this Schedule applies, section 10 (review of certificates of recoverable benefits)(1) is to apply as if in—
 - (a) the heading and in subsection (1), there were omitted “of recoverable benefits” in each place it occurs;
 - (b) subsection (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 1999 (review of certificates),”.
4. Where this Schedule applies, section 11 (appeals against certificates of recoverable benefits)(2) is to apply as if in—
 - (a) the heading and in subsections (1) and (2)(a), there were omitted “of recoverable benefits” in each place it occurs;
 - (b) subsection (1)(a), there were omitted “, rate or period”;
 - (c) subsection (1)(b)—
 - (i) for “listed benefits” there were substituted “lump sum payments”;
 - (ii) there were omitted “accident, injury or”;
 - (d) subsection (1)(c)—
 - (i) for “listed benefits” there were substituted “lump sum payments”;
 - (ii) for “the injured person during the relevant period” there were substituted “P”;
 - (e) subsection (1)(d), for “1(1)(a)” there were substituted “1A(1)(a)”;
 - (f) subsection (2)(aa) for “section 7(2)(a)” there were substituted “regulation 11(2)(a) of the Lump Sum Payments Regulations”;
 - (g) subsection (2)(b), for “section 8) the injured person” there were substituted “regulation 12 of the Lump Sum Payments Regulations) P”;
 - (h) subsection (3), for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations”.
5. Where this Schedule applies, section 12 (reference of questions to medical appeal tribunal)(3) is to apply as if in—
 - (a) the heading for “questions to medical appeal tribunal” there were substituted “appeal to appeal tribunal”;
 - (b) subsection (3), there were omitted “accident, injury or”;
 - (c) subsection (4)(a), for “amounts, rates and periods” there were substituted “amount, type and date of payments”;

(1) Section 10 was amended by the Social Security Act 1998 (c. 14), section 86(1) and paragraph 149 of Schedule 7.

(2) Section 11 was amended by the Social Security Act 1998, section 86(1) and paragraph 150 of Schedule 7 and by the Constitutional Reform Act 2005 (c. 4), section 59(5) and paragraph 1(2) of Schedule 11 and subsection (6) of section 11 was repealed by the Social Security Act 1998, Schedule 8.

(3) Section 12 was amended by the Social Security Act 1998, section 86(1) and paragraph 151 of Schedule 7 and subsections (6) to (8) of section 12 were repealed by the Social Security Act 1998, Schedule 8.

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(d) subsections (4)(a) and (c), there were omitted “of recoverable benefits” in each place it occurs.

6. Where this Schedule applies, section 13 (appeal to Social Security Commissioner)(4) is to apply as if in—

- (a) subsection (2)(b), there were omitted “of recoverable benefits”;
- (b) subsection (2)(c) for “section 8) the injured person” there were substituted “regulation 12 of the Lump Sum Payments Regulations) P”.

7. Where this Schedule applies, section 14 (reviews and appeals: supplementary) is to apply as if in—

- (a) subsection (1), there were omitted “of recoverable benefits”;
- (b) subsections (2) and (3), for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations” in each place it occurs;
- (c) subsection (4), for “section 8” there were substituted “regulation 12 of the Lump Sum Payments Regulations”.

8. Where this Schedule applies, for section 15 (court orders) is to apply as if there were substituted—

“15.—(1) This section 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 Act 1976 (c. 30);
- (b) to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976 (c. 13);
- (c) under the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)); 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—

- (a) under the Fatal Accidents Act 1976;
- (b) to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976;
- (c) under the Fatal Accidents (Northern Ireland) Order 1977; 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.”.

9. Where this Schedule applies, section 17 (benefits irrelevant to assessment of damages) is to apply as if—

- (a) in the heading for “benefits” there were substituted “lump sum payments”;
- (b) there were omitted “accident, injury or”;
- (c) for “listed benefits” there were substituted “lump sum payments”.

(4) Section 13 was amended by the Social Security Act 1998, section 86(1) and (2) and paragraph 152 of Schedule 7 and subsection (4) of section 14 was repealed by the Social Security Act 1998, Schedule 8.

10. Where this Schedule applies, section 18 (lump sum and periodical payments) is to apply as if—

- (a) in subsection (1)—
 - (i) for “the injured person” there were substituted “P”;
 - (ii) there were omitted “accident, injury or”;
- (b) in subsection (2), for “section 8” there were substituted “regulation 12 of the Lump Sum Payments Regulations”;
- (c) for subsection (3) there were substituted—
 - “(3) For the purposes of subsection (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.”;
- (d) in subsection (4), for “the injured person’s” there were substituted “P’s”;
- (e) in subsection (5), there were omitted paragraph (a).

11. Where this Schedule applies, section 19 (payments by more than one person) is to apply as if in—

- (a) subsection (1)—
 - (i) for “injured person” there were substituted “P”;
 - (ii) there were omitted “accident, injury or”;
- (b) subsection (2)—
 - (i) for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations”;
 - (ii) for “benefits” there were substituted “lump sum payments”;
- (c) subsection (3)—
 - (i) in paragraph (a), for “benefits” there were substituted “lump sum payments”;
 - (ii) in paragraph (b), for “section 8” there were substituted “regulation 12 of the Lump Sum Payments Regulations”.

12. Where this Schedule applies, section 20 (amounts overpaid under section 6) is to apply as if in—

- (a) the heading and in subsection (1), for “section 6” there were substituted “regulation 10 of Lump Sum Payments Regulations” in each place it occurs;
- (b) subsection (4)(a), for “section 8” there were substituted “regulation 12 of the Lump Sum Payments Regulations”.

13. Where this Schedule applies, section 21 (compensation payments to be disregarded) is to apply as if in—

- (a) subsections (1) and (5)(a), for “sections 6 and 8” there were substituted “regulations 10 and 12 of the Lump Sum Payments Regulations” in each place it occurs;
- (b) subsection (2)(a), there were omitted “of recoverable benefits”;
- (c) subsection (3)(a)—
 - (i) for “the injured person” there were substituted “P”;
 - (ii) there were omitted “accident, injury or”;

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- (d) subsection (4), for “section 4” there were substituted “regulation 8 of the Lump Sum Payments Regulations”;
 - (e) subsection (5)(b), for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations”.
- 14.** Where this Schedule applies, section 22(1) (liability of insurers) is to apply as if—
- (a) in paragraph (a), there were omitted “accident, injury or”;
 - (b) for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations”.
- 15.** Where this Schedule applies, section 23 (provision of information) is to apply as if—
- (a) in subsection (1), for—
 - (i) “any accident, injury or” there were substituted “a”;
 - (ii) “any person (“the injured person”)” there were substituted “P”;
 - (iii) “the injured person” there were substituted “P”;
 - (b) in subsection (1)(a), there were omitted “accident, injury or”;
 - (c) for subsection (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 Secretary of State by P or a dependant of P, as the case may be.”;
 - (d) in subsection (3), for “listed benefit” there were substituted “lump sum payment”;
 - (e) in subsection (4)—
 - (i) for “any accident, injury or” there were substituted “a”;
 - (ii) there were omitted “, or any damage to property,”;
 - (f) there were omitted subsections (5), (6) and (8).
- 16.** Where this Schedule applies, section 26 (residence of the injured person – Northern Ireland) is to apply as if—
- (a) in subsections (1)(a) and (b)(i), (2)(a), (b) and (c) and (3)(d)(ii), there were omitted “of recoverable benefits” in each place it occurs;
 - (b) in subsections (1)(c)(ii) and (2)(c)(i), for “section 6” there were substituted “regulation 10 of the Lump Sum Payments Regulations”;
 - (c) in subsections (1) and (2), for “injured person’s address” there were substituted “address of P”;
 - (d) for subsection (3)(a), there were substituted—
 - (a) “the address of P” is the address first notified in writing to the person making the payment by or on behalf of P as the residence of P (or if P had died, by or on behalf of the person entitled to receive the compensation payment as the last residence of P).”;
 - (e) in subsection (3)(d)(i) and the heading to this section, for “the injured person” there were substituted “P” in each place it occurs.
- 17.** Where this Schedule applies, section 27 (jurisdiction of courts – Northern Ireland) is to apply as if in—
- (a) subsections (1) and (2), for “section 7” there were substituted “regulation 11 of the Lump Sum Payments Regulations” in each place it occurs;

- (b) subsection (3)(a)(i), for—
 - (i) “the injured person” the first time it occurs, there were substituted “P”;
 - (ii) “the injured person or, if he” there were substituted “P or, if P”.
- 18.** Where this Schedule applies, section 29 (general interpretation)(5) is to apply as if—
 - (a) there were omitted the following definitions—
 - (i) “benefit”;
 - (ii) “compensation scheme for motor accidents”;
 - (iii) “listed benefit”;
 - (b) in the appropriate place, there were inserted the following definitions—
 - (i) “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;
 - (ii) “P” is to be construed in accordance with regulation 5 of the Lump Sum Payments Regulations;
 - (iii) “recoverable lump sum payments” means any lump sum payments which are recoverable by virtue of regulation 4 of the Lump Sum Payments Regulations;
 - (iv) “the Lump Sum Payments Regulations” means the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.
- 19.** Where this Schedule applies, Part 1 of Schedule 1 (compensation payments – exempted payments)(6) is to apply as if—
 - (a) in paragraph 2 and 3(a), for “the injured person” there were substituted “P” in each place it occurs;
 - (b) in paragraph 3(a) and (b) there were omitted “accident, injury or” in each place it occurs;
 - (c) for paragraph 5(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.”;
 - (d) in paragraph 6 for “an accident, injury or” there were substituted “a”.
- 20.** Where this Schedule applies, paragraph 9 of Part 2 of Schedule 1 (compensation payments – power to disregard small payments) is to apply as if in—
 - (a) sub-paragraph (1), for “sections 6 and 8” there were substituted “regulations 10 and 12 of the Lump Sum Payments Regulations”;
 - (b) sub-paragraph (3)(a)—
 - (i) for “injured person” there were substituted “P”;
 - (ii) there were omitted “accident, injury or”.

(5) Section 29 was amended by the Social Security Act 1998, section 86(1) and paragraph 153 of Schedule 7.

(6) Part 1 of Schedule 1 was amended by the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 165 and paragraph 181 of Schedule 9 and S.I. 2001/3649, article 358.

SCHEDULE 2

Regulation 3

Consequential amendments

1. The Social Security and Child Support (Decisions and Appeals) Regulations 1999(7) are amended as follows—

- (a) in regulation 1(3) (interpretation), after the definition of “referral” insert—
 - ““the Lump Sum Payments Regulations” means the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008;”;
- (b) after regulation 9 (certificates of recoverable benefits), insert—

“Review of certificates

9ZA.—(1) A certificate may be reviewed under section 10 of the 1997 Act where the Secretary of State 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 section 1A(5) of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State 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 section 11 of the 1997 Act or an appeal has been made under that section; 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 and regulations 1(3) in paragraph (b) of the definition of “party to the proceedings”, 29, 31, 33, 36(2)(a)(ii) and 58(1), where applicable—

- (a) any reference to the 1997 Act is to be construed so as to include a reference to that Act as applied by regulation 2 of the Lump Sum Payments Regulations and, where applicable, as modified by Schedule 1 to those Regulations;
- (b) “certificate” has the same meaning as in regulation 1(2) of the Lump Sum Payments Regulations;
- (c) “lump sum payment” is a payment to which section 1A(2) of the 1997 Act applies;
- (d) “P” is to be construed in accordance with regulations 4(1)(a)(i) and 5 of the Lump Sum Payments Regulations.”;

- (c) in regulation 29 (further particulars required relating to certificate of recoverable benefits appeals or applications)—
 - (i) in the heading to that regulation and paragraphs (1), (1)(a) and (6), after “recoverable benefits” insert “or, as the case may be, recoverable lump sum payments”;
 - (ii) in paragraph (2), after “1997 Act” insert “or, in the case of lump sum payments, regulation 14 of the Lump Sum Payments Regulations”;
- (d) in regulation 31 (time within which an appeal is to be brought)—

(7) S.I. 1999/991.

- (i) in paragraph (3), after “recoverable benefits” insert “or, as the case may be, recoverable lump sum payments”;
- (ii) in paragraph (3)(a) after “1997 Act” add “or, in the case of lump sum payments, regulation 10 of the Lump Sum Payments Regulations”;
- (iii) for paragraph (3)(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, arising out of the accident, injury or disease; or
 - (ii) P, arising out of the disease,not later than one month after the date of that agreement.”;
- (e) in regulation 33(2)(a) (making of appeals and applications), after “recoverable benefits” insert “or, as the case may be, recoverable lump sum payments”.