
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 367

The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001

Part II

Injury Benefits

Persons to whom these Regulations apply

3.—(1) Subject to paragraph (3), and regulation 17, these Regulations shall apply to any person who while he—

- (a) is in the paid employment of an employing authority;
- (b) is a practitioner;
- (c) holds an appointment with an employing authority the terms of which declare it to be honorary;
- (d) holds an appointment as a member of such body constituted under the 1972 Order as the Department may approve;
- (e) is a provider of piloted services other than a person to whom paragraph (2) applies;
- (f) is a registered medical practitioner who is a medical scheme employee and whose employment as such requires the consent of a Health and Social Services Board with which the person providing piloted services has agreed to provide piloted services;
- (g) is a registered dentist who is a dental pilot scheme employee;
- (h) is a registered dentist who is engaged under a contract for services by a person providing piloted services to carry out personal dental services in accordance with a pilot scheme;
- (i) is a dental therapist who is a dental pilot scheme employee; or
- (j) is a dental hygienist who—
 - (i) is employed as a dental pilot scheme employee otherwise than by a HSS Trust; and
 - (ii) was, immediately before the commencement of such employment, a member of the Scheme, to whom these Regulations applied.

(hereinafter referred to in this regulation as “his employment”), sustains an injury, or contracts a disease, to which paragraph (3) applies.

(2) This paragraph applies to a provider of personal dental services under a pilot scheme who is neither a registered dentist or a dental therapist, and—

- (a) who—
 - (i) immediately prior to the commencement of the pilot scheme, was a HSS dental employee, and
 - (ii) was not at that time a member of the Scheme; or

(b) to whom these Regulations did not apply immediately prior to the commencement of the pilot scheme.

(3) 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 wholly or mainly attributable to his employment and also to any other injury sustained and, similarly, to any other disease contracted if—

- (a) it is wholly or mainly 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 wholly or mainly attributed 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.

(4) These Regulations shall not apply to any person in relation to any injury or disease wholly or mainly due to, or seriously aggravated by, his own culpable negligence or misconduct.

Scale of benefit

4.—(1) Subject to paragraph (5), benefits in accordance with this regulation shall be payable by the Department to any person to whom regulation 3(1) applies whose earning ability is permanently reduced by more than 10 per cent. by reason of the injury or disease.

(2) Where a person to whom regulation 3(1) applies ceases to be employed as such a person by reason of the injury or disease and no allowance or lump sum, other than an allowance under paragraph (5), has been paid under these Regulations in consequence of the injury or disease, there shall be payable, from the date of cessation of employment, an annual allowance of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of his average remuneration shown in whichever column of the Table hereunder is appropriate to his service in relation to the degree by which his earning ability is reduced at that date.

TABLE

SERVICE

(1) <i>Degree of reduction of earning ability</i>	(2) <i>Less than 5 years</i>	(3) <i>5 years and over but less than 15 years</i>	(4) <i>15 years and over but less than 25 years</i>	(5) <i>25 years and over</i>
More than 10% but not more than 25%	15%	30%	45%	60%
More than 25% but not more than 50%	40%	50%	60%	70%

(1) <i>Degree of reduction of earning ability</i>	(2) <i>Less than 5 years</i>	(3) <i>5 years and over but less than 15 years</i>	(4) <i>15 years and over but less than 25 years</i>	(5) <i>25 years and over</i>
More than 50% but not more than 75%	65%	70%	75%	80%
More than 75%	85%	85%	85%	85%

(3) Where, before attaining age 60, a person to whom regulation 3(1) applies ceases to be employed as such a person other than by reason of the injury or disease and no allowance or lump sum, other than an allowance under paragraph (5), has been paid under these Regulations in consequence of the injury or disease, he may be paid, from the date on which he attains age 60, or such earlier date as the Department may in any particular case allow, an annual allowance of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of his average remuneration shown in whichever column of the Table in paragraph (2) is appropriate to his service in relation to the degree by which his earning ability is reduced by reason of the injury or disease at that date.

(4) Where a person to whom regulation 3(1) applies suffers a reduction in the emoluments of an employment mentioned in that regulation, by reason of the injury or disease, there shall be payable from the date of that reduction, an annual allowance—

- (a) of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6), will provide an income of the percentage of his average remuneration shown in whichever column of the Table in paragraph (2) is appropriate to his service in relation to the degree by which his earning ability is reduced at the date that his emoluments were reduced; or
- (b) of the amount, if any, which, when added to the value, expressed as an annual amount, of any pension specified in paragraph (6)(a), will provide an income at the annual rate at which a pension would have been payable to the person under his relevant pension scheme if, on the day before such reduction, he had ceased to be employed and was incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

whichever is the greater:

Provided that regulation 14(4) shall apply to that allowance as if the person had ceased to be employed on the day before his emoluments were reduced and had been re-employed on the following day with the reduced emoluments.

(5) Where, on or after 1st April 1992, a person to whom regulation 3(1) applies, or to whom regulation 3(1) of the previous Regulations applied, is or was on leave of absence from an employment mentioned in that regulation with reduced emoluments by reason of the injury or disease, there shall be payable by that person's employing authority on behalf of the Department, during or in respect of the period of such leave and without regard to any reduction in the person's earning ability, an annual allowance of the amount, if any, which when added to the aggregate of—

- (a) the emoluments payable to the person during his leave of absence, and
- (b) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) (including the value of any equivalent benefits payable under the enactments consolidated by the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

will provide an income of 85 per cent. of his average remuneration.

- (6) The pensions and benefits specified in this paragraph are—
- (a) any pension payable to the person under a relevant pension scheme disregarding any reduction in the amount of that pension under regulation 92 (Offset for crime, negligence or fraud) or regulation 93 (Loss of rights to benefits) of the superannuation scheme Regulations and disregarding any increase in the amount of that pension, under the Pensions (Increase) Act (Northern Ireland) 1971(1) after the date at which the average remuneration used in the calculation of the allowance was calculated;
 - (b) any of the following benefits, at the rates in operation at the date on which the employment ceased or the emoluments were reduced, as the case may be, which are payable to the person—
 - (i) disablement pension payable under section 103 of, or disablement gratuity payable under section 106 of, and paragraph 9 of Schedule 7 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992) or so much of any such pension or gratuity as relates to the injury or disease (hereinafter referred to as “the relevant part”), together with—
 - (a) any increase in such pension payable by way of unemployability supplement under paragraph 2 of that Schedule (or so much of any such increase as is proportionate to the relevant part of the said pension) but excluding any increase in that supplement under paragraph 3(2) of Schedule 7; and
 - (b) any increase in such pension payable under paragraphs 4(3) or 6 of Schedule 7 (dependants) or so much of any such increase as is proportionate to the relevant part of the said pension;

but excluding any increase under section 104 (increase where constant attendance is needed) or section 105 (increase for exceptionally severe disablement) of that Act;

- (ii) incapacity benefit payable under section 30A(4) of that Act in respect of the injury or disease, together with any increase in benefit payable under sections 51A(5) (special provision for married people), 80 (beneficiary’s dependant children), 83A(6) (pension increase for spouse), 85(7) (increase—person with care of children), 86A(8) (increase for adult dependants) or 87(9) (rate of increase where associated retirement pension is attributable to reduced contributions) of that Act;
- (iii) severe disablement allowance payable under section 68(10) of that Act in respect of the injury or disease, together with any increase payable under section 90 (dependants) of that Act;

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- (1) 1971 c. 35 (N.I.); Part I of the Act was amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6, to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to, the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5) Article 10(3))
 - (2) Paragraph 3 was amended by paragraph 37 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49) and paragraph 41(2) of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
 - (3) Paragraph 4 was amended by Article 2 of S.R. 1999 No. 94
 - (4) Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994
 - (5) Section 51A was inserted by paragraph 18(6) of Schedule 2 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
 - (6) Section 85A was inserted by paragraph 2(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995
 - (7) Section 85 was amended by paragraphs 14(d) and 18(10) of Schedule 2 to the Pensions (Northern Ireland) Order 1995
 - (8) Section 86A was inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994
 - (9) Section 87 was amended by paragraph 24 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and paragraph 9 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))
 - (10) Section 68 was amended by regulation 2(2) of S.R. 1994 No. 370 and Article 11 of, and paragraph 18 of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (iv) reduced earnings allowance payable under paragraph 11(11) of Schedule 7 to that Act in respect of the injury or disease;
- (v) retirement allowance payable under paragraph 13(12) of Schedule 7 to that Act in respect of the injury or disease.

(7) Where the relevant pension scheme is the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers or any other scheme under which the benefits may be paid otherwise than as an annual pension, and all or part of the contributions to the scheme on behalf of the person have been paid from public funds, the pension payable thereunder shall, for the purposes of paragraph (6)(a), be deemed to include three-quarters of such sum that, in the option of the Department, represents the value, expressed as an annual amount, of the benefits of the policies or accumulated investments held under the scheme on behalf of the person.

(8) Where a practitioner has received payments under regulation 65 of the 1962 Regulations or under regulation 72 of the 1984 Regulations, there shall, for the purposes of paragraph (6)(a), be deemed to be payable to him a pension of such amount, if any, as the Department thinks fit, but not exceeding the amount of the pension to which the practitioner would, if he had not been entitled to such payments, have become entitled under those regulations, in respect of the period or periods for which such payments were made to him, if he had attained age 60 and had served the minimum period of qualifying service.

(9) A person mentioned in paragraph (2) or (3), or a person mentioned in paragraph (4) who subsequently ceases to be employed as such a person by reason of the injury or disease, shall be entitled to receive a lump sum of the proportion of average remuneration shown in column (2) of the Table hereunder in relation to the degree by which his earning ability is reduced.

TABLE

(1) <i>Degree of reduction of earning ability</i>	(2) <i>Proportion of average remuneration</i>
More than 10% but not more than 25%	One-eighth
More than 25% but not more than 50%	One-quarter
More than 50% but not more than 75%	Three-eighths
More than 75%	One-half

Recovery of costs

5.—(1) Where, during the period commencing 1st April 1992 and ending on 30th November 2001, an allowance or any part of an allowance, or lump sum, under paragraph (2), (3), (4) or (9) of regulation 4 or, regulation 7, 8, 9, or 11 of the previous Regulations, was paid to or in respect of a person to whom regulation 3(1) of the previous Regulations applied, that person’s employing authority shall be liable to pay a contribution to the Department in accordance with paragraph (5) representing—

- (a) the total amount of such allowance or such part of it; or
- (b) the total amount of such lump sum;

together with the cost of providing an increase to it under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.

(11) Paragraph 11 was modified by regulation 12A of S.R. 1986 No. 179 which was inserted by regulation 3 of S.R. 1994 No. 347
(12) Paragraph 13 was amended by paragraph 19(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(2) Subject to paragraph (3), where, on or after 1st November 2001, a claim is made for an allowance or any part of it, or lump sum under paragraphs (2), (3), (4) or (9) of regulation 4, or regulations 8, 9, 10, or 12 by or in respect of a person to whom regulation 3(1) of these Regulations applies, that person's employing authority shall, on the payment by the Department pursuant to that claim of the allowance or any part of it, or, as the case may be, of the lump sum, be liable to pay a contribution to the Department in accordance with paragraph (5) representing—

- (a) the total amount of such allowance or such part; or
- (b) the total amount of such lump sum;

together with the cost of providing increases to it under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.

(3) In paragraphs (1) and (2) of this regulation "that person's employing authority" means the employing authority by which he was employed at the date a claim to an allowance payable under these Regulations or the previous Regulations was made, or if the date of claim falls after he has ceased to be in employment, the employing authority by whom he was last employed.

(4) Paragraph (2) shall not apply to any claim made on or after 2001 where that claim is made in respect of a person who dies on or after that date but who was, before that date, in receipt of an allowance or lump sum under paragraphs (2), (3), (4) or (9) of regulation 4 or who would, before that date, have received such an allowance or lump sum under any of those paragraphs but for—

- (a) the total amount of such allowance or such part; or
- (b) the total amount of such lump sum;

together with the cost of providing pensions increases to it under Part I of the Pensions (Increases) Act (Northern Ireland) 1971.

(5) Contributions payable to the Department under paragraph (1) shall be paid not later than one month from the end of the quarter in which the lump sum referred to in that paragraph was paid or, in any case where that period has expired, within such longer period as the Department may allow.

(6) Contributions payable to the Department under paragraph (2) shall be paid not later than one month from the end of the quarter in which the allowance or any part of it, or as the case may be, the lump sum, referred to in that paragraph was paid.

(7) This regulation shall apply to—

- (a) a practitioner;
- (b) a person providing piloted services;
- (c) a registered dentist who is engaged, under a contract for services, by a person providing piloted services to carry out personal dental services in accordance with a pilot scheme;
- (d) a registered medical practitioner who is a medical pilot scheme employee; and
- (e) a dental pilot scheme employee who is employed as such otherwise than by a HSS Trust, as if he were an officer employed by the Health and Social Services Board in whose area he is providing services or, as the case may be, the Health and Social Services Board, with which the person providing piloted services has agreed to provide piloted services.

Meaning of service

6. A person's service shall comprise all of the periods which at the date on which he ceased to hold an employment or appointment mentioned in regulation 3(1), or on which the emoluments of such employment or appointment were reduced, as the case may be, fell within any of the following descriptions, but no period shall be taken into account under more than one description—

- (a) any period during which he held such employment or appointment;

- (b) any period of employment that would be taken into account for any purpose of a relevant pension scheme; and
- (c) any other period that the Department may approve in any particular case.