

2013 No. 141

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Injury Benefits) (Amendment) Regulations (Northern Ireland)
2013**

Made - - - - - *23rd May 2013*

Coming into operation - *31st May 2013*

The Department of Health, Social Services and Public Safety, with the consent of the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 12(1) and (2), 14(2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a).

In accordance with Article 12(4) of that Order, the Department has consulted with representatives of persons likely to be affected by these Regulations, as appeared to the Department to be appropriate.

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Injury Benefits) (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 31st May 2013.

PART 2

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

Amendment of the Injury Benefit Regulations

2. The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(b) are amended as provided by regulations 3 to 10.

(a) 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13); 1993 c.49 (N.I.) and S.I. 2002/1555
(b) S.R. 2001 No.367

Amendment of regulation 2

3. In regulation 2(1) (Interpretation), in the definition of “average remuneration”—
- (a) in paragraph (aa) for “regulation 4(3)”, substitute “regulation 4(3A) or (3D)”;
 - (b) in paragraph (bb) for “regulation 4(4) or (5)”, substitute “regulation 4(4), (4B), (5) or (5B)”;

Amendment of regulation 3

4. In paragraph (1)(a) of regulation 3 (Persons to whom these Regulations apply), in the full-out words for “sustains an injury or contracts a disease,” substitute “sustains an injury before 31st May 2013, or contracts a disease before that date.”

Amendment of regulation 4

- 5.—(1) Regulation 4 (Scale of benefit), is amended as provided by paragraphs (2) to (11).
- (2) In paragraph (1)—
- (a) for “Subject to paragraph (5), benefits” substitute “Benefits”;
 - (b) after “disease” insert “and who makes a claim in accordance with regulation 19A”.
- (3) In paragraph (2)—
- (a) after “ceases to be employed”, insert “before 31st May 2018”;
 - (b) for “reduced at that date”, substitute “permanently reduced at the date that person ceases that employment”.
- (4) After paragraph (2), insert—
- “(2A) This paragraph applies to a person to whom regulation 3(1) applies who—
- (a) ceases employment on or after 31st May 2018 but before 31st May 2038 by reason of the injury or disease, and
 - (b) has not been paid, other than under paragraph (5), any allowance or lump sum under these Regulations in consequence of that injury or disease.
- (2B) Where paragraph (2A) applies the Department may, if satisfied that the evidence produced by the person is compelling, pay from the date of the person’s cessation of employment an annual allowance of the amount referred to in paragraph (2C).
- (2C) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person’s average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person’s service in relation to the degree by which that person’s earning ability is permanently reduced at the date that person ceases that employment: for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.
- (2D) Evidence is compelling if—
- (a) it is reliable,
 - (b) its value for understanding and determining the person’s claim for benefit is substantial, and
 - (c) it is highly probative of that claim.”.
- (5) For paragraph (3)(b), substitute—
- “(3) This paragraph applies to a person to whom regulation 3(1) applies who—

(a) Paragraph (1) was amended by S.R. 2005 No.565 regulation 13(3)
(b) Paragraph (3) was amended by S.R. 2008 No.350 regulation 3(5)(a)

- (a) ceases to be employed before 31st May 2018 other than by reason of the injury or disease,
- (b) at the date of ceasing that employment has not attained normal benefit age,
- (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
- (d) has not been paid, other than under paragraph (5), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3A) Where paragraph (3) applies the Department may pay from the date that the person attains normal benefit age or, as the Department may in any particular case allow, from the date that person suffers the reduction in earning ability referred to in paragraph (3)(c), an annual allowance of the amount referred to in paragraph (3B).

(3B) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person's average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person's service in relation to the degree by which that person's earning ability is permanently reduced at the date referred to in paragraph (3A): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

(3C) This paragraph applies to a person to whom regulation 3(1) applies who—

- (a) ceases employment on or after 31st May 2018 but before 31st May 2038 other than by reason of the injury or disease,
- (b) at the date of ceasing employment has not attained normal benefit age,
- (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
- (d) has not been paid, other than under paragraph (5), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3D) Where paragraph (3C) applies the Department may, if satisfied that the evidence produced by the person is compelling, pay from the date that the person attains normal benefit age or, as the Department may in any particular case allow, from the date that person suffers the reduction of earning ability referred to in paragraph (3C), an annual allowance of the amount referred to in paragraph (3E).

(3E) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person's average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person's service in relation to the degree by which that person's earning ability is permanently reduced at the date referred to in paragraph (3D): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

(3F) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person's claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(6) In paragraph (4)(a) after “in that regulation” insert “before 31st May 2018”.

(7) After paragraph (4), insert—

“(4A) This paragraph applies to a person to whom regulation 3(1) applies who suffers a permanent reduction in the emoluments of an employment mentioned in that regulation on or after 31st May 2018 but before 31st May 2038.

(a) Paragraph (4) was amended by S.R. 2008 No.130 regulation 4(3)

(4B) Where paragraph (4A) applies the Department may, if satisfied that the evidence produced by the person is compelling, pay from the date of that reduction an annual allowance of the amount referred to in, and calculated in accordance with, paragraph (4).

(4C) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person's claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(8) In paragraph (5), after “1992” insert “but before 31st May 2018”.

(9) After paragraph (5), insert—

“(5A) This paragraph applies to a person to whom regulation 3(1) applies who, on or after 31st May 2018 but before 31st May 2038, is or was on leave of absence with reduced emoluments by reason of the injury or disease.

(5B) Where paragraph (5A) applies the Department may, if satisfied that the evidence produced by the person is compelling, pay from the date of the reduction of the person's emoluments, an annual allowance of the amount referred to in paragraph (5C): the annual allowance is without regard to any reduction in the person's earning ability.

(5C) That amount is an amount, if any, which when added to the value of Amount A will provide an income of 85 per cent of the person's average remuneration: for these purposes Amount A is to be expressed as an annual amount.

(5D) Amount A is the aggregate of—

- (a) the emoluments payable to the person during that person's 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).

(5E) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person's claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(10) In paragraph (6)(a), after sub-paragraph (b)(vi) add—

“(vii) an injury allowance payable on or after 31st May 2013 in accordance with the Terms and Conditions of the person's employment.”.

(11) After paragraph (10), add—

“(11) In paragraph (6) of this regulation, “injury allowance” means the allowance by that name referred to in the NHS Terms and Conditions of Service Handbook.”.

Amendment of regulation 5

6. In paragraph (2) of regulation 5 (Recovery of costs)(b), for “paragraph (2), (3), (4)” substitute “paragraphs (2), (2B), (3A), (3D), (4), (4B)”.

(a) Paragraph (6) was amended by S.R.2008 No.350 regulation 3(5)(a); S.R.2009 No.65 regulation 85; S.R.2009 No.188 regulation 82 and S.R.2013 No.40 regulation 21

(b) Regulation 5 was amended by S.R. 2005 No.565 regulation 13(4); S.R. 2006 No.159 regulation 4(5); S.R. 2008 No.130 regulation 4(4) and (5) and S.R. 2009 No.65 regulation 86

Amendment of regulation 19A

7.—(1) Regulation 19A (Claim for benefits)(a), is amended as provided by paragraphs (2) to (4)2) At the end of paragraph (1) insert (as full out words), “This is subject to paragraph (1A).”.

(3) After paragraph (1), insert—

“(1A) No person shall be entitled to a benefit under regulation 4(2B), (3D), (4B) or (5B) unless that person—

(a) makes a claim for it; and

(b) the claim is made within a period of 6 months, or such longer period as the Department decides is reasonable, commencing with the date on which the person became aware, or in the view of the Department the date on which it is reasonable to expect them to have become aware, that they may be a person to whom regulation 3(1) applies.”.

(4) After paragraph (4), add—

“(5) This regulation applies to claims for benefits made before 31st May 2038 and no entitlement to benefit arises if the date of the claim is on or after that date.

(6) This regulation is subject to regulation 19B.”.

New regulation 19B

8. After regulation 19A (Claims for benefits), insert—

“19B Claims: Additional matters

(1) Other than a claim in respect of a benefit referred to in regulation 4(5), a claim for benefit under Part II or Part III of these Regulations is to be made to the Department in such form as the Department is willing to accept.

(2) A claim in respect of a benefit referred to in regulation 4(5) is to be made to the person’s employing authority in such form and in such a manner as that authority may accept.

(3) A claim must be accompanied by all the medical evidence necessary to determine whether conditions of entitlement for the benefit are satisfied.

(4) In the case of a claim for a benefit which is to be made to the Department, if the Department notifies that person in writing that the Department so requires, that person is to provide any specified relevant information including medical evidence that is in that person’s possession or which that person can reasonably be expected to obtain.

(5) In the case of a claim for a benefit which is to be made to a person’s employing authority, if that authority notifies that person in writing that it so requires, that person is to provide any specified relevant information including medical evidence that is in that person’s possession or which that person can reasonably be expected to obtain.

(6) In the case of a claim which is to be made to the Department, the date of the claim is to be the date on which the form the Department is willing to accept is received by the Department.

(7) In the case of a claim which is to be made to the person’s employing authority, the date of the claim is to be the date on which that authority receives that claim in the form and manner it accepts.”.

(a) Regulation 19A was inserted by S.R. 2006 No.159 regulation 4(3); amended by S.R. 2008 No.130 regulation 4(6) and by S.R. 2009 No.65 regulation 87

Amendment of regulation 22A

9.—(1) Regulation 22A (Decisions by employing authorities)(**a**) is amended as provided by paragraphs (2) and (3).

(2) The opening paragraph shall be numbered (1), and for “regulation 4(4)” substitute “regulation 4(2), (2B), (3A) (3D), (4) or (4B)”;

(3) After paragraph (1) add—

“(2) An employing authority referred to in paragraph (1) must record in writing the date on which that authority considers the injury or disease in question was sustained or contracted.”.

Amendment of regulation 22B

10. After paragraph (3) of regulation 22B (Notification requirements)(**b**), add—

“(4) A person who is in receipt of a benefit under Part II of these Regulations must notify the Department within 14 days, and in writing, of any change in the person’s earnings or employment.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 23 May 2013

(L.S.)

Bernie Stuart

A senior officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 23 May 2013

(L.S.)

Bill Pauley

A senior officer of the Department of Finance and Personnel

(a) Regulation 22A was inserted by S.R. 2006 No.159 regulation 4(4)

(b) Regulation 22B was inserted by S.R. 2009 No.65 regulation 88

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001 (S.R. 2001 No.367).

Regulation 1 provides for citation and commencement.

Amendment to the Injury Benefits Regulations

These regulations close the HPSS Injury Benefits Scheme in respect of injuries sustained or diseases contracted on or after 31st May 2013 and put in place transitional arrangements with regard to injuries sustained or diseases contracted before that date.

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STATUTORY RULES OF NORTHERN IRELAND

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