

Part C - Transitional Protection arrangements – guidance on the application of the sunset and exception clauses.

HSC Injury Benefits Scheme – Changes from 31st May 2013

1 Temporary Injury Allowance

- Temporary Injury Allowance payable under the HSC Injury Benefit Scheme will no longer be available to people who sustain an injury or contract a disease due to HSC employment on or after 31st May 2013.
- From 31st May 2013 Temporary Injury Allowance will be replaced by a new allowance known as Injury Allowance and will form part of NHS Staff Terms and Conditions of Service. - Section 22 of the NHS Terms and Conditions of Service handbook and supporting guidance refers

2 Injury Allowance

- The Injury Allowance covers employees who sustain an injury or contract a disease or other health condition due to HSC employment on or after 31st May 2013.
- Employers are responsible for the administration of the Injury Allowance.
- Any dispute about entitlement to the Injury Allowance is to be considered under employer's local grievance procedures.

3 Permanent Injury Benefits

Permanent Injury Benefit under the HSC Injury Benefit Scheme will no longer be available to people who sustain an injury or contract a disease due to HSC employment on or after 31st May 2013.

Injuries or diseases arising on or before 30th May 2013

4 Access to the HSC Injury Benefit Scheme will continue to be available under ***amended Health and Personal Social Services (Injury Benefit) Regulations(Northern Ireland) sunset (the 'sunset clause') and exception (the 'exception clause')*** arrangements until 31st May 2038 for people who suffer a relevant injury or disease on or before 30th May 2013.

The Sunset Clause

5 The sunset clause covers the period from 31st May 2013 to 30th May 2018.

6 During this period eligible employees will be able to apply for Temporary Injury Allowance and/or Permanent Injury Benefit for injuries or diseases occurring on or before 30th May 2013.

7 The application and decision making processes for Temporary Injury Allowance and Permanent Injury Benefit remain unchanged. HSC employing organisations are responsible for considering claims for Temporary Injury Allowance and for the calculation and payment of the allowance where appropriate.

8 HSC Pension Service will continue to consider disputes about entitlement to TIA under its Internal Dispute Resolution procedures.

9 Applications for Permanent Injury Benefit will still be dealt with by HSC Pension Service. Applications should continue to be made on Form PIB1 and sent to HSC Pension Service for action. Form PIB1 is available for download from the HSC Pension Service website.

10 HSC Pension Service will continue to consider disputes about entitlement to Permanent Injury Benefits under its Internal Dispute Resolution procedures.

The Exception Clause

11 The exception clause has been introduced to cover the period from 31st May 2018 until 30th May 2038. During this period access to scheme benefits will only be available to those who can prove that there has been a delayed onset of their symptoms such that a benefit claim was not previously necessary.

12 During this period the application and decision making processes for Temporary Injury Allowance and Permanent Injury Benefit remain broadly the same, subject to the additional requirement that the burden of proof will rest with the individual to prove causation and that the injury occurred on or before 30th May 2013.

13 HSC employing organisations will continue to be responsible for considering claims for Temporary Injury Allowance and applications for Permanent Injury Benefit will continue to fall to HSC Pension Service for determination.

14 Additionally, there is a full disclosure requirement for all available evidence in support of any applications or appeals made by individuals under the protection arrangements. This means that all parties can have full access to all the relevant information as part of any appeal process.

Death/dependants benefits

15 Death benefits remain available for people who die as a result of sustaining an injury or contracting a disease before 31st May 2013

People in receipt of HSC Injury Benefits on or before 30th May 2013

16 People who in receipt of Temporary Injury Allowance or Permanent Injury Benefits on or before 30th May 2013 will not be affected by the changes from 31st May 2013.

17 The existing provisions for benefit and deterioration reviews under regulation 13 and damages recovery under regulation 17 of the HPSS Injury Benefit Regulations 2001 remain in operation.

People who have applied for HSC Injury Benefits on or before 30th May 2013

18 People who have applied for Temporary Injury Allowance or Permanent Injury Benefits in respect of an injury sustained or a disease contracted on or before 30th May 2013 but where the outcome has not been determined at that date will not be affected by the changes from 31st May 2013.

People who have had an application for HSC Injury Benefits rejected on or before 30th May 2013

19 People whose application for Temporary Injury Allowance or Permanent Injury Benefits has been rejected on before 30th May 2013 in respect of an injury sustained or disease contracted on or before that date will not be affected by the changes from 31st May 2013. The two stage Internal Dispute Resolution procedures operated by HSC Pension Service remains available to applicants who wish to challenge (appeal) the outcome of their claim for Temporary Injury Allowance or Permanent Injury Benefit

Who decides if an employee is entitled to TIA?

20 Employers have delegated authority to make decisions on entitlement to TIA. If an employee disagrees with the decision or believes that a decision may be flawed because it has not been considered in accordance with the HPSS Injury Benefit Regulations, they can ask HSC Pension Service to consider their dispute (appeal) under the provisions of the Internal Dispute Resolution (IDR) procedures. The employer's decision letter will include more information for the employee on how to go about appealing if they wish.

21 Entitlement to TIA is decided by the claimant's HSC employer. However, where employers require assistance or advice in order to reach a decision, they can approach the HSC Pension Service for help.