STATUTORY RULES OF NORTHERN IRELAND

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(**1**).

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.

(**1**) 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

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(**2**) are amended as provided by regulations 3 to 10.

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)(**3**) 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

(**2**) S.R. 2001 No.367

(**3**) Paragraph (1) was amended by S.R. 2005 No.565 regulation 13(3)

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)(**4**), substitute—

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

(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.

(**4**) Paragraph (3) was amended by S.R. 2008 No.350 regulation 3(5)(a)

(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)(**5**) 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.

(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.".

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