STATUTORY RULES OF NORTHERN IRELAND

2001 No. 367

HEALTH AND PERSONAL SOCIAL SERVICES

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

Made - - - -	*8th October 2001*
Coming into operation	*1st December 2001*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred by Articles 12(1), (2) and (3) and 14(2) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**2**) and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate in accordance with Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel hereby makes the following Regulations:

Part I

Preliminary

Citation and commencement

1. These Regulations may be cited as the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001 and shall come into operation on 1st December 2001.

Interpretation

2.—(1) In these Regulations—

"the 1962 Regulations" means the Health Services (Superannuation) Regulation (Northern Ireland) 1962(**3**);

"the 1984 Regulations" means the Health and Personal Social Services (Superannuation) Regulation 1984(**4**)

(**1**) *See*S.I.1999/283 (N.I. 1): Article 3(6)
(**2**) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(**3**) S.R. & O. (N.I.) 1962 No. 237 which was repealed by regulation 80 of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 336)
(**4**) S.R. 1984 No. 336 which was repealed by regulation 99 of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) (S.R. 1995 No. 95)

"the 1972 Order" means the Health and Personal Social Services (Northern Ireland) Order 1972(**5**);

"the 1997 Order" means the Health Services (Primary Care) (Northern Ireland) Order 1997(**6**);

"the superannuation scheme Regulations" means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**7**);

"the previous Regulations" means the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 1975(**8**);

"the Agency" means the Northern Ireland Central Services Agency for Health and Social Services established under Article 26 of the 1972 Order;

"assistant practitioner" means an employee of a medical practitioner or dental practitioner whose name is included on a medical or dental list being himself a registered medical practitioner or dental practitioner who, in such employment, is engaged in assisting his employer in the actual discharge of his duties as such practitioner, and for whose employment the consent of the Health and Social Services Board concerned is required;

"average remuneration" means—

(a) in relation to a person other than a practitioner, such amount as would be or would have been his final year's superannuable pay, within the meaning of regulation 3(6) of the superannuation scheme Regulations, as an officer to whom those Regulations apply (assuming, in the case of a person to whom regulation 3(1)(*c*) applies, that he was in receipt of the superannuable pay which would in the opinion of the Department, have been payable if he were employed whole-time by an employing authority on similar duties); or

(b) in relation to a practitioner, the yearly average of such amount as would be or would have been his uprated earnings, calculated in accordance with paragraph 11(2) of Schedule 2 to the superannuation scheme Regulations, as a practitioner to whom those Regulations apply;

calculated as if he had retired—

(i) in the case of a person eligible for an allowance under regulation 4(3), on the date on which he ceased to be employed as a person to whom regulation 3(1) applies;

(ii) in the case of a person eligable for an allowance under regulation 4(4) or (5), on the date on which his emoluments were reduced;

(iii) in the case of any other person, on the date on which by reason of the injury or disease his employment ceased:

Provided that in respect of a person to whom regulation 3(1)(*a*) applies who, immediately before he ceased to be employed by reason of the injury or disease or as a person to whom regulation 3(1) applies, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as senior registrar, registrar, specialist registrar, senior house officer or house officer, his average remuneration shall be increased to the amount which in the opinion of the Department represents the average remuneration of a general medical practitioner, or a general dental practitioner, as the case may be, of comparable age;

"dental hygienist" means a person whose name is included in the roll of dental hygienists referred to in regulation 21 of the Dental Auxiliaries Regulations 1986(**9**);

(**5**) S.I. 1972/1265 (N.I. 14)
(**6**) S.I. 1997/1177(N.I. 7)
(**7**) S.R. 1995 No. 95 as amended by S.R. 1997 No. 217; S.R. 1997 No. 390; S.R. 1998 No. 299 and S.R. 1999 No. 293
(**8**) S.R. 1975 No. 85 as amended by S.R. 1986 No. 151; S.R. 1991 No. 506
(**9**) S.I. 1986/887

"dental list" means a list prepared in accordance with Regulations under Article 61(2)(*a*) of the 1972 Order;

"dental pilot scheme employee" means a person who is performing personal dental services in accordance with a pilot scheme, and is employed by a person who is providing those services;

"dental therapist" means a person whose name is included in the roll of dental therapists referred to in regulation 25 of the Dental Auxiliaries Regulations 1986;

"Department" means the Department of Health, Social Services and Public Safety;

"emoluments" means all salary, wages, fees and other payments paid or made to a person as such for his own use, and also the money value of any accommodation or other allowances in kind appertaining to his employment, but does not include payments for overtime which are not a usual incident of his employment, or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other money to be spent, or to cover expenses incurred, by him for the purposes of his employment; and where fees or other variable payments were made to a person as part of his emoluments during any period immediately preceding a reduction of emoluments, the amount in respect of fees or other variable payments to be included in the emoluments shall be the average of the fees or other variable payments paid to him during the period of 3 years immediately preceding the reduction of the emoluments, or such other period as the Department may think reasonable in the circumstances;

"employing authority" means—

(a) a Health and Social Services Board;

(b) a HSS Trust;

(c) the Agency;

(d) the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland established under section 5 of the Nurses, Midwives and Health Visitors Act 1979(**10**);

(e) any special agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(**11**); and

(f) any such other body that is constituted under any transferred provision relating to health services and which the Department agrees to treat as an employing authority for the purposes of these Regulations;

"Health and Social Services Board" means a Health and Social Services Board established under Article 16 of the 1972 Order;

"health services" has the meaning assigned to it by Article 2(2) of the 1972 Order;

"HSS dental employee" means a person who, in connection with the provision of health services, is employed by—

(a) a Health and Social Services Board;

(b) a HSS Trust;

(c) a registered dentist; or

(d) a registered dentist who is providing personal dental services in accordance with a pilot scheme;

"HSS Trust" means a Health and Social Services Trust established under the Health and Personal Social Services (Northern Ireland) Order 1991(**12**);

"medical list" means the list kept under Regulations under Article 56(2)(*a*) of the 1972 Order;

(**10**) 1979 c. 36 as amended by 1992 c. 16
(**11**) S.I. 1990/247 (N.I. 1)
(**12**) S.I. 1991/194 (N.I. 1)

"medical pilot scheme employee" means a person who, in connection with a the provision of personal medical services in accordance with a pilot scheme, is employed by a person providing those services;

"personal dental services" has the meaning given in Article 3(7) of the 1997 Order;

"personal medical services" has the meaning given in Article 3(7) of the 1997 Order;

"pilot scheme" has the meaning given in Article 3(1) of the 1997 Order;

"pilot services" has the meaning given in Article 3(4) of the 1997 Order;

"practitioner" means—

(a) a registered medical practitioner or a registered dentist whose name is included in the medical list of a Health and Social Services Board or, as the case may be, on the dental list of a Health and Social Services Board, other than a registered dentist who is employed by a Health and Social Services Board or a HSS Trust;

(b) an assistant practitioner;

(c) a registered medical practitioner or a registered dentist who is providing piloted services under a pilot scheme;

(d) a registered dentist who contracts with a person providing piloted services to carry out personal dental services in accordance with a pilot scheme; and

(e) a registered medical practitioner or registered dentist who is a medical pilot scheme employee or, as the case may be, a dental pilot scheme employee, and—

(i) whose name appears on the medical list, or as the case may be, the dental list of a Health and Social Services Board, other than a registered dentist who was employed by a Health and Social Services Board or HSS Trust; or

(ii) who was an assistant practitioner;

immediately prior to the commencement of employment as a medical or dental pilot scheme employee;

"quarter" means a 3 month period ending on the last day of March, June, September or December;

"registered dentist" has the meaning given in section 53(1) of the Dentists Act 1984(**13**);

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983(**14**);

"relevant pension scheme" means any form of arrangement, whether subsisting by virtue of a transferred provision, trust, contract or otherwise for the provision of superannuation benefits in connection with an employment mentioned in regulation 3(1), including a personal pension scheme as defined in section 1 of the Pensions Schemes (Northern Ireland) Act 1993(**15**), or an additional pension referred to in section 44(3)(*b*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**16**), but excluding—

(a) any arrangements for the provision of benefits under legislation related to social security, other than the said additional pension;

(b) any arrangement for the provision of benefits paid by additional voluntary contributions under which the rate or amount of benefit payable is calculated by reference to the proceeds of the investment of those contributions;

(**13**) 1984 c. 24
(**14**) 1983 c. 54
(**15**) 1993 c. 49
(**16**) 1992 c. 7

"the Scheme" means the Health and Personal Social Services Superannuation Scheme for Northern Ireland the rules of which are set out in superannuation scheme Regulations;

"service" has the meaning given in regulation 6.

(2) Where any pension or child's allowance which is or would have been payable under a relevant pension scheme is taken into account for the purpose of any calculation under these Regulations, such pension or allowance shall exclude any amount by which it is or would have been increased under the Pensions (Increase) (Northern Ireland) Order 1974(**17**).

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

(**17**) S.I. 1974/1267 (N.I. 2)