STATUTORY RULES OF NORTHERN IRELAND

1997 No. 429

SOCIAL SECURITY

The Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997

Made - - - -	*23rd September 1997*
Coming into operation	*6th October 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 6(9), 16(2) to (4), 18(1) and (2), 20(1) to (5), 21, 23(3), 25(1), (2), (5) and (7) and 30 of, and paragraphs 4 and 8 of Schedule 1 to, the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**2**) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997 and shall come into operation on 6th October 1997.

(2) In these Regulations "the Order" means the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.

(3) Any reference in these Regulations to a numbered Article or Schedule is to the Article of, or the Schedule to, the Order bearing that number.

(4) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Exempted trusts and payments

2.—(1) The following trusts are prescribed for the purposes of paragraph 4 of Schedule 1—

(a) the Macfarlane Trust established on 10th March 1988 partly out of funds provided by the Secretary of State to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;

(**1**) 1992 c. 8
(**2**) S.I.1997/1183 (N.I. 12)
(**3**) 1954 c. 33 (N.I.)

(b) the Macfarlane (Special Payments) Trust established on 29th January 1990 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia;

(c) the Macfarlane (Special Payments) (No. 2) Trust established on 3rd May 1991 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia and other beneficiaries;

(d) the Eileen Trust established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions.

(2) The following payments are prescribed for the purposes of paragraph 8 of Schedule 1—

(a) any payment to the extent that it is made—

(i) in consequence of an action under the Fatal Accidents Act 1976(**4**) or the Fatal Accidents (Northern Ireland) Order 1977(**5**), or

(ii) in circumstances where, had an action been brought, it would have been brought under that Act or that Order;

(b) any payment to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976(**6**);

(c) any payment made under the Vaccine Damage Payments Act 1979(**7**) to or in respect of the injured person;

(d) any award of compensation made to or in respect of the injured person under the Criminal Injuries (Compensation) (Northern Ireland) Order 1988(**8**), the Criminal Injuries Compensation Act 1995(**9**) or by the Criminal Injuries Compensation Board under the Criminal Injuries Compensation Scheme 1990 or any earlier scheme;

(e) any compensation payment made by British Coal in accordance with the National Coal Board Pneumoconiosis Compensation Scheme set out in the Schedule to an agreement made on 13th September 1974 between the National Coal Board, the National Union of Mine Workers, the National Association of Colliery Overmen Deputies and Shotfirers and the British Association of Colliery Management;

(f) any payment made to the injured person in respect of sensorineural hearing loss where the loss is less than 50dB in one or both ears;

(g) any contractual amount paid to an employee by an employer of his in respect of a period of incapacity for work;

(h) any payment made under the National Health Service (Scotland) (Injury Benefits) Regulations 1974(**10**), the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 1975(**11**) or the National Health Service (Injury Benefits) Regulations 1995(**12**);

(i) any payment made by or on behalf of the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992.

(**4**) 1976 c. 30
(**5**) S.I. 1977/1251 (N.I. 18)
(**6**) 1976 c. 13
(**7**) 1979 c. 17
(**8**) S.I. 1988/793 (N.I. 4)
(**9**) 1995 c. 53
(**10**) S.I. 1974/1838
(**11**) S.R. 1975 No. 85
(**12**) S.I. 1995/866

Information to be provided by the compensator

3. The following information is prescribed for the purposes of Article 25(1)—

(a) the full name and address of the injured person;

(b) either the date of birth or national insurance number of that person, or both;

(c) where the liability arises, or is alleged to arise, in respect of an accident or injury, the date of the accident or injury;

(d) the nature of the accident, injury or disease; and

(e) where the relevant period(**13**) may include a period prior to 6th April 1994, whether, at the time of the accident or injury or diagnosis of the disease, the person was employed under a contract of service, and, if so, the name and address of his employer at that time and, where applicable, that person's payroll number.

Information to be provided by the injured person

4. The following information is prescribed for the purposes of Article 25(2)—

(a) whether the accident, injury or disease resulted from any action taken by another person, or from any failure of another person to act, and, if so, the full name and address of that other person;

(b) whether the injured person has claimed or may claim a compensation payment, and, if so, the full name and address of the person against whom the claim was or may be made;

(c) the amount of any compensation payment and the date on which it was made;

(d) the listed benefits claimed, and for each benefit the date from which it was first claimed and the amount received in the period beginning with and including that date and ending with the date on which the information is sent;

(e) in the case of a person who has received statutory sick pay during any part of the relevant period falling prior to 6th April 1994, the name and address of any employer who made such payments to him during that period and the dates on which his employment with that employer began and ended; and

(f) any changes in the medical diagnosis relating to any condition arising from the accident, injury or disease.

Information to be provided by the employer

5. The following information is prescribed for the purposes of Article 25(5)—

(a) the amount of any statutory sick pay paid to the injured person during any part of the relevant period falling prior to 6th April 1994;

(b) the date on which the liability to pay such statutory sick pay first arose and the rate at which it was payable;

(c) the date on which such liability terminated; and

(d) the cause of incapacity for work during any period of entitlement to statutory sick pay during any part of the relevant period falling prior to 6th April 1994.

Provision of information

6. A person required to give information to the Department under regulations 3 to 5 shall do so by sending it to the Department not later than 14 days after—

(**13**) *See* Article 5 of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

(a) if he is a person to whom regulation 3 applies, the date on which he receives a claim for compensation from the injured person in respect of the accident, injury or disease; or

(b) if he is a person to whom regulation 4 or 5 applies, the date on which the Department requests the information from him.

Application for a certificate of recoverable benefits

7.—(1) The following particulars are prescribed for the purposes of Article 23(3)(*a*)—

(a) the full name and address of the injured person;

(b) the date of birth and, where known, the national insurance number of that person;

(c) where the liability arises, or is alleged to arise, in respect of an accident or injury, the date of the accident or injury;

(d) the nature of the accident, injury or disease; and

(e) where the person liable, or alleged to be liable, in respect of the accident, injury or disease, is the employer of the injured person, or has been such an employer, the information prescribed by regulation 5.

(2) For the purposes of the Order an application for a certificate of recoverable benefits is to be treated as received on the date on which it is received by the Department.

Payments into court

8.—(1) Subject to the following provisions of this regulation, where a party to an action makes a payment into court which, had it been paid directly to another party to the action ("the relevant party"), would have constituted a compensation payment—

(a) the making of that payment shall be treated for the purposes of the Order as the making of a compensation payment;

(b) a current certificate of recoverable benefits shall be lodged with the payment; and

(c) where the payment is calculated under Article 10, the compensator shall give the information specified in Article 11(1) to the relevant party instead of to the person to whom the payment is made,

and in this paragraph "a current certificate of recoverable benefits" means a certificate that is in force in accordance with Article 6(4).

(2) The liability under Article 8(1) to pay an amount equal to the total amount of the recoverable benefits shall not arise until the person making the payment into court has been notified that the whole or any part of the payment into court has been paid out of court to or for the relevant party.

(3) Where a payment into court in satisfaction of his claim is accepted by the relevant party in the initial period, then as respects the compensator in question, the relevant period shall be taken to have ended, if it has not done so already, on the date on which the payment into court (or if there were two or more such payments, the last of them) was made.

(4) Where, after the expiry of the initial period, the payment into court is accepted in satisfaction of the relevant party's claim by consent between the parties, the relevant period shall end, if it has not done so already, on the date on which the application to the court for the payment is made.

(5) Where, after the expiry of the initial period, payment out of court is made wholly or partly to or for the relevant party in accordance with an order of the court and in satisfaction of his claim, the relevant period shall end, if it has not done so already, on the date of that order.

(6) In paragraphs (3) to (5) "the initial period" means the period of 21 days after the receipt by the relevant party of notice of the payment into court having been made.