1990 No. 85

SOCIAL SECURITY

The Social Security (Recoupment) Regulations (Northern Ireland) 1990

Made . . . . . *6th March 1990*

Coming into operation—
for the purposes of regulations 1, 5 to 8 and 16 *2nd April 1990*
for the purposes of regulations 2, 9, 10, 13 and 15 *9th July 1990*
for all other purposes *3rd September 1990*

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 24(3), (4)(*g*) and (5) and 31(3) of, and paragraphs 1(2), 4(1) and (2), 13, 15(1)(*a*)(i) and (*b*), 17(4) and (10) and 21(2) of Schedule 4 to, the Social Security (Northern Ireland) Order 1989(**a**) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance and Personnel to regulations 2 and 3(**b**), hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Recoupment) Regulations (Northern Ireland) 1990 and shall come into operation as follows—

(*a*) for the purposes of regulations 1, 5 to 8 and 16 on 2nd April 1990;

(*b*) for the purposes of regulations 2, 9, 10, 13 and 15 on 9th July 1990; and

(*c*) for all other purposes on 3rd September 1990.

(2) In these regulations—

"the 1989 Order" means the Social Security (Northern Ireland) Order 1989;

"Schedule 4" means Schedule 4 to the 1989 Order; and

"the Compensation Recovery Unit" means the Compensation Recovery Unit of the Department at Castle Buildings, Stormont, Belfast.

PART II

BENEFITS AND PAYMENTS

Relevant benefits

2.—(1) The following benefits are relevant benefits for the purposes of Article 24 of the 1989 Order—

(*a*) attendance allowance;

(**a**) S.I. 1989/1342 (N.I. 13)
(**b**) *See* Article 30(5) of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

(*b*) disablement benefit (including disablement pensions) payable in accordance with sections 57 to 63 of the principal Act;

(*c*) family credit;

(*d*) income support, under Part III of the 1986 Order(**a**), including personal expenses addition, special transitional addition and transitional addition as defined in the Income Support (Transitional) Regulations (Northern Ireland) 1987(**b**);

(*e*) invalidity pension and allowance;

(*f*) mobility allowance;

(*g*) benefits payable under regulations made under the Old Cases Act;

(*h*) reduced earnings allowance;

(*i*) retirement allowance;

(*j*) severe disablement allowance;

(*k*) sickness benefit;

(*l*) statutory sick pay;

(*m*) unemployment benefit;

(*n*) any increase in any of the benefits mentioned above payable in accordance with the Social Security (Northern Ireland) Acts 1975 to 1989 or the Old Cases Act or with any regulations or order made thereunder.

(2) In paragraph (1), the reference to unemployment benefit includes also a reference to any income support paid with it on the same instrument of payment, and for this purpose, income support includes personal expenses addition, special transitional addition and transitional addition as defined in the Income Support (Transitional) Regulations (Northern Ireland) 1987.

(3) In this regulation "instrument of payment" has the same meaning as in regulation 2(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**c**).

Small payments

3.—(1) A person shall be exempted from liability to make the relevant deduction or the relevant payment where the amount of the compensation payment in question, or the aggregate amount of 2 or more connected compensation payments, does not exceed £2,500.

(2) Where an amount has been deducted and paid to the Department which, by virtue of paragraph (1), ought not to have been so deducted and paid, the Department—

(*a*) where it is satisfied that the whole of the amount ought to have been paid to the intended recipient, shall pay the whole of that amount to that person; or

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(**a**) S.I. 1986/1888 (N.I. 18)

(**b**) S.R. 1987 No. 460; relevant amending regulations are S.R. 1988 Nos. 132 and 153 and S.R. 1989 Nos. 371 and 485. *See also* Article 16 of S.R. 1989 No. 18

(**c**) S.R. 1987 No. 465

(*b*) where it is not so satisfied, shall either pay the whole of the amount to the compensator or pay to the compensator that part of the amount which he would have been entitled to retain and to the intended recipient that part which he would have been entitled to receive(**a**) had the amount not been so deducted and paid.

Exempt payments

4. The following payments shall be exempt payments for the purposes of Article 24 of the 1989 Order—

(*a*) any payment made out of property held for the purpose of the charitable trust called the Macfarlane Trust and established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;

(*b*) 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 Mineworkers, the National Association of Colliery Overmen Deputies and Shotfirers and the British Association of Colliery Management;

(*c*) any payment made to the victim in respect of sensorineural hearing loss where the loss is less than 50 db in one or both ears; and

(*d*) any contractual amount paid to an employee by an employer of his in respect of a day of incapacity for work.

PART III

ADMINISTRATION AND ADJUDICATION

Information to be provided by compensator

5. A person who is, or is alleged to be, liable in respect of an accident, injury or disease, or any person acting on his behalf, shall furnish the Department with the following information in respect of that accident, injury or disease—

(*a*) the full name and the address of any person seeking compensation or in respect of whom compensation is sought;

(*b*) where known, the date of birth or the national insurance number of that person, or both if both are known;

(**a**) *See* section 3 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23). Section 3(1) was amended by paragraph 72(*a*) of Schedule 2 to the Social Security (Consequential Provisions) Act 1975 (c. 18), paragraph 3 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 1 of Schedule 2 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and, from 3rd September 1990, by paragraph 22(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1989. Section 3(1A) is inserted, and section 3(2) ceases to have effect, from 3rd September 1990, by paragraph 22(2) and (3), respectively, of Schedule 4 to the Social Security (Northern Ireland) Order 1989. Section 3(6) was substituted by paragraph 72(*b*) of Schedule 2 to the Social Security (Consequential Provisions) Act 1975

(*c*) where the liability arises, or is alleged to arise, in respect of—

(i) an accident or injury, the date of the accident or injury, or

(ii) a disease, the date on which the disease was diagnosed;

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

(*e*) where known, whether at the time of the accident or injury or the diagnosis of the disease, the person was employed under a contract of service, and if he was, the name and address of his employer at that time and the person's payroll number.

Information to be provided by victim

6.—(1) A person who claims (whether on behalf of himself or another) a relevant benefit or has been in receipt of such a benefit, shall furnish the Department with such of the following information relating to any accident, injury or disease the victim has suffered as the Department requests—

(*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 the address of that other person;

(*b*) whether he has claimed or may claim a compensation payment, and if so, the full name and the 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 relevant benefit claimed, the date from which benefit was first claimed and the amount of the benefit received in the period beginning with that date and ending with the date on which the information is sent;

(*e*) in the case of a person who has received or is entitled to receive statutory sick pay during the relevant period, the name and address of any employer who is or was liable to make these payments to him during the relevant period and the dates on which the employment with that employer began and ended; and

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

(2) In this regulation "person" includes a deceased person's personal representative.

Information to be provided by employer

7. Any person—

(*a*) who is the employer of a person who suffers or has suffered an accident, injury or disease; or

(*b*) who has been the employer of such a person at any time during the relevant period,

shall furnish the Department with such of the following information relating to the payment of statutory sick pay as the Department requests—

(i) the amount of any statutory sick pay he is liable to pay or has paid to the victim since the first day of the relevant period,