1975 No. 85

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 1975

Made . . . . . 3*rd April* 1975

Coming into operation . . . . 1*st June* 1975

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(a) and of every other power enabling it in that behalf, after consulting representatives of persons likely to be affected by these regulations, and with the consent of the Department of Finance, 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) 1975 and shall come into operation on 1st June 1975.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

"the superannuation regulations" means the Health Services (Superannuation) Regulations (Northern Ireland) 1962;

"assistant practitioner" means—

(*a*) an employee of a medical practitioner or dental practitioner on the list of a Health and Social Services Board, being himself a 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

(*b*) a medical practitioner who is being trained in general practice as a trainee general practitioner under arrangements made by the Department;

"average remuneration" means—

(*a*) in relation to a person mentioned in regulation 3(1)(*a*), (*b*) or (*d*), such amount which would be or would have been his average remuneration as an officer to whom the superannuation regulations applied; or

(*b*) in relation to a person mentioned in regulation 3(1)(*c*), such amount which would be or would have been the average remuneration of an officer employed whole-time by an employing authority on similar duties;

calculated in accordance with regulation 12(4) of the superannuation regulations (in relation to employment as a practitioner) or regulation 29(1) of those regulations except provisos (*f*) and (*h*) thereof (in relation to any other employment) 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) applied;

(ii) in the case of a person eligible 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:

(a) For the references to all Acts and instruments mentioned in these regulations see the Table at the end of the regulations.

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) applied, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as senior registrar, registrar, senior house officer or house officer, 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;

"the Department" means the Department of Health and Social Services;

"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 moneys 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 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*) the Northern Ireland Central Services Agency for the Health and Social Services;

(*c*) the Northern Ireland Staffs Council for the Health and Social Services;

(*d*) the Northern Ireland Council for Nurses and Midwives;

(*e*) any such other body constituted under the Health and Personal Social Services (Northern Ireland) Order 1972 as the Department may approve;

"minimum pensionable age" means age 60, or any earlier age at which the person would, on voluntary retirement, have become entitled to receive a pension under the relevant pension scheme;

"practitioner" means a medical practitioner or a dental practitioner on the list of a Health and Social Services Board and includes an assistant practitioner;

"relevant pension scheme" means any form of arrangement, whether subsisting by virtue of an Act of Parliament (but not an Act relating to national insurance), trust, contract or otherwise for the provision of superannuation benefits associated with the employment in which the injury was suffered or the disease was contracted;

"service" has the meaning assigned to it by regulation 5.

(2) Where any pension or child's allowance which is or would have been payable under the 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.

PART II

INJURY BENEFITS

Persons to whom the regulations apply

3.—(1) Subject to regulation 14, these regulations shall apply to any person who, while he—

(*a*) is in the paid employment of an employing authority for the whole or for part only of his time; or

(*b*) is a practitioner; or

(*c*) holds an appointment with an employing authority the terms of which declare it to be honorary; or

(*d*) holds an appointment as a member of such body constituted under the Health and Personal Social Services (Northern Ireland) Order 1972 as the Department may approve,

(hereinafter in this regulation referred to as "his employment") either—

(i) suffers an injury in the course of his employment; or

(ii) suffers an injury which is attributable to the duties of his employment; or

(iii) contracts a disease to which he is exposed by the nature of his employment.

(2) These regulations shall not apply to any person in relation to an injury or disease wholly or mainly due to, or seriously aggravated by, his own culpable negligence or misconduct.

Scale of benefit

4.—(1) Benefits in accordance with this regulation shall be payable by the Department to any person to whom regulation 3(1) applies whose earning ability is permanently reduced by more than 10 per cent by reason of the injury or disease, but, in the case of a person to whom paragraph (5) applies, the Department shall pay those benefits without regard to any reduction in the person's earning ability.

(2) Where a person to whom regulation 3(1) applies ceases to be employed as such a person by reason of the injury or disease and no allowance or lump sum, other than an allowance under paragraph (5), has been paid under these regulations in consequence of the injury or disease, there shall be payable, from the date of cessation of employment, an annual allowance of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of his average remuneration shown in whichever column of the table hereunder is appropriate to his service in relation to the degree by which his earning ability is reduced at that date.

TABLE

Degree of reduction of earning ability	*Service*			
	Less than 5 years	*5 years and over but less than 15 years*	*15 years and over but less than 25 years*	*25 years and over*
(1)	(2)	(3)	(4)	(5)
More than 10% but not more than 25%	15%	30%	45%	60%
More than 25% but not more than 50%	40%	50%	60%	70%
More than 50% but not more than 75%	65%	70%	75%	80%
More than 75%	85%	85%	85%	85%

(3) Where, before attaining minimum pensionable age, a person to whom regulation 3(1) applies ceases to be employed as such a person other than by reason of the injury or disease and no allowance or lump sum, other than an allowance under paragraph (5), has been paid under these regulations in consequence of the injury or disease, he may be paid, from the date on which he attains age 60, or such earlier date as the Department may in any particular case allow, an annual allowance of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of his average remuneration shown in whichever column of the table in paragraph (2) is appropriate to his service in relation to the degree by which his earning ability is reduced by reason of the injury or disease at that date.

(4) Where a person to whom regulation 3(1) applies suffers a reduction in the emoluments of an employment mentioned in that regulation, by reason of the injury or disease, there shall be payable from the date of that reduction, an annual allowance—

(*a*) of the amount, if any, which when added to the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6), will provide an income of the percentage of his average remuneration shown in whichever column of the table in paragraph (2) is appropriate to his service in relation to the degree by which his earning ability is reduced at the date that his emoluments were reduced; or

(*b*) of the amount, if any, which, when added to the value, expressed as an annual amount, of any pension specified in paragraph (6)(*a*), will provide an income at the annual rate at which a pension would have been payable to the person under his relevant pension scheme if, on the day before such reduction, he had ceased to be employed and was incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;