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;

whichever is the greater:

Provided that regulation 13(4) shall apply to that allowance as if the person had ceased to be employed on the day before his emoluments were reduced and had been re-employed on the following day with the reduced emoluments.

(5) Where a person to whom regulation 3(1) applies is on leave of absence from employment mentioned in that regulation with reduced emoluments by reason of the injury or disease, there shall be payable during the period of such leave an annual allowance of the amount, if any, which when added to the aggregate of—

(*a*) the emoluments payable to the person during his leave of absence, and

(*b*) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6),

will provide an income of 85 per cent of his average remuneration.

(6) The pensions and benefits specified in this paragraph are—

(*a*) any pension payable to the person under the relevant pension scheme, but excluding any amount by which that pension is increased under the Pensions (Increase) Act (Northern Ireland) 1971 after the date at which the average remuneration used in the calculation of the allowance was calculated;

(*b*) any of the following benefits, at the rates in operation at the date on which the employment ceased or the emoluments were reduced, as the case may be, which are payable to the person—

(i) injury benefit payable under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 which relates to the injury or disease together with any supplement payable therewith under section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966;

(ii) disablement pension or gratuity payable under section 12 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 in respect of the injury or disease or so much of any such pension or gratuity as relates to the injury or disease (hereinafter referred to as "the relevant part"), together with—

(A) any increase in such pension payable by way of unemployability supplement under section 13 of that Act or so much of any such increase as is proportionate to the relevant part of the said pension so, however, that where he is entitled to an unemployability supplement which is increased under section 13A of that Act, the unemployability supplement shall be deemed not to have been so increased,

(B) any increase in such pension payable under section 14 of that Act (special hardship) or so much of any such increase as is proportionate to the relevant part of the said pension,

(C) any increase in such pension payable under section 17 or 18 of that Act (dependants) or so much of any such increase as is proportionate to the relevant part of the said pension, and

(D) so long as he is receiving treatment as an in-patient at a hospital as a result of the injury or disease, any increase in such pension payable under section 16, 17 or 18 of that Act (hospital treatment and dependants);

(iii) until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under section 19 of the National Insurance Act (Northern Ireland) 1966—

(A) any sickness benefit payable under that Act, together with any increase therein payable under section 39 or 42 of that Act (dependants) and any supplement thereto payable under section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966 (short term earnings related benefit), or

(B) any invalidity pension payable under the National Insurance Act (Northern Ireland) 1966 together with any increase therein payable under section 39 or 42A of that Act (dependants).

(7) Where a relevant pension scheme is the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers or any other scheme under which the benefits may be paid otherwise than as an annual pension, and all or part of the contributions to the scheme on behalf of the person have been paid from public funds, the pension payable thereunder shall, for the purposes of paragraph (6)(*a*), be deemed to include three-quarters of such sum that, in the opinion of the Department, represents the value, expressed as an annual amount, of the benefits of the policies or accumulated investments held under the scheme on behalf of the person.

(8) Where a practitioner has received payments under regulation 65 of the superannuation regulations, there shall, for the purposes of paragraph (6)(*a*), be deemed to be payable to him a pension of such amount, if any, as the Department thinks fit, but not exceeding the amount of the pension to which the practitioner would, if he had not been entitled to such payments, have become entitled under those regulations, in respect of the period or periods for which such payments were made to him, if he had attained age 60 and had served the minimum period of qualifying service.

(9) A person mentioned in paragraph (2) or (3), or a person mentioned in paragraph (4) who subsequently ceases to be employed as such a person by reason of the injury or disease, shall be entitled to receive a lump sum of the proportion of average remuneration shown in column (2) of the table hereunder in relation to the degree by which his earning ability is reduced.

TABLE

Degree of reduction of earning ability	*Proportion of average remuneration*
(1)	(2)
More than 10% but not more than 25%	One-eighth
More than 25% but not more than 50%	One-quarter
More than 50% but not more than 75%	Three-eighths
More than 75%	One-half

Meaning of service

5. A person's service shall comprise all or any of the periods which at the date on which he ceased to hold an employment or appointment mentioned in regulation 3(1)(*a*) to (*d*), or on which the emoluments of such employment or appointment were reduced, as the case may be, fell within any of the following descriptions, but no period shall be taken into account under more than one description—

(*a*) any period during which he held such employment or appointment;

(*b*) any period of employment that would be taken into account for any purpose of the relevant pension scheme; and

(*c*) any other period that the Department may approve in any particular case.

PART III

BENEFITS ON DEATH OF INJURED PERSON

Grounds of entitlement

6. If a person to whom these regulations apply dies as a result of, or his death was, in the opinion of the Department, substantially hastened by, the injury or disease, the Department shall pay in respect of that person (hereinafter referred to as "the deceased") the benefits provided in this part, except that such benefits shall not be payable in respect of an injury or disease wholly or mainly due to, or seriously aggravated by, the culpable negligence or misconduct of the deceased.

Widow's or widower's allowance

7.—(1) Subject to paragraphs (2), (3) and (4) and to regulation 10, there shall be payable to the widow or widower of a person mentioned in regulation 6 an annual allowance of the amount, if any, which when added to the aggregate of—

(*a*) the amount of any pension payable under the relevant pension scheme in respect of the deceased, to or for the benefit of the widow or widower; and

(*b*) the amount, based on the rates in operation immediately following the deceased's death, being

(i) in the case of a widow, the amount by which the annual amount of the standard rate of any pension under section 19 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 payable to her in consequence of her husband's death exceeds the annual amount of a widow's pension under the National Insurance Act (Northern Ireland) 1966; or

(ii) in the case of a widower, the amount by which the annual amount of any pension under section 20 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 payable to him in consequence of his wife's death exceeds the annual amount of an invalidity pension under Article 3 of the Social Services (Parity) Order (Northern Ireland) 1971;

will provide an income of 45 per cent of the deceased's average remuneration.

(2) Subject to paragraph (3), for the first 3 months immediately following the death of a person who, at the date of his death was entitled to an allowance under these regulations, there shall be payable to his widow an annual

allowance of the amount, if any, which when added to the aggregate mentioned in paragraph (1) will provide an income of the percentage of average remuneration by reference to which the deceased's annual allowance was calculated:

Provided that this paragraph shall not apply where the aggregate of annual allowances otherwise payable under paragraph (1) and regulations 8(1) and 9(1) would exceed an allowance payable under this paragraph.

(3) A widow or widower shall not be entitled to receive an allowance—

(*a*) if the marriage took place after the deceased last ceased to be employed as a person to whom these regulations apply or after the date on which his earning ability was reduced as a result of the injury or disease, whichever is the later; or

(*b*) if at the date of the deceased's death, husband and wife were judicially separated; or

(*c*) if at the date of the deceased's death such widow or widower was cohabiting with another person as if she or he was married to that other person; or

(*d*) in respect of any period after such widow or widower remarries or during which she or he cohabits with another person as if she or he was married to that other person, so, however, that where such marriage has terminated, the Department may restore an allowance to a widow or widower if it is satisfied that such widow or widower is suffering hardship.

(4) A widower shall not be entitled to receive an allowance unless, at the date of the deceased's death, he was incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living and was wholly or mainly dependent upon the deceased.

(5) In this regulation, "judicially separated" means judicially separated in circumstances in which the husband is not required by the order of any competent court to contribute to the support of his wife, and any such reference and any similar reference to judicial separation includes a reference to separation by an order made under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945, having by virtue of section 3 of that Act the effect of a decree of judicial separation on the ground of cruelty.

Child's allowance

8.—(1) Subject to paragraphs (2) and (3) and to regulation 10, on the death of a person mentioned in regulation 6 or, where an allowance is payable under regulation 7(2), on the termination of payment of that allowance, there shall be payable to any child or children an annual allowance of the amount, if any, which when added to the annual amount of any pension payable under the relevant pension scheme in respect of the deceased to, or for the benefit of, such child or children will provide an income of 10 per cent of the deceased's average remuneration multiplied by the number of children not exceeding four, or of twice that sum where there is no surviving parent:

Provided that where the Department is satisfied that a surviving parent is not maintaining such child or children, it may pay the allowance to or for the benefit of that child or those children as if there were no surviving parent.

(2) An allowance shall not be granted to any child unless he—

(*a*) was dependent upon the deceased at the date of his death; and

(*b*) is—

(i) a child of the deceased, his spouse or his dead brother or sister or child; or

(ii) a brother or sister of the deceased; or

(iii) in any particular case if the Department agrees, a child whom the deceased intended to adopt or who for a period of 2 years or for half of his life, whichever is the shorter, had been dependent on the deceased; and

(*c*) was such a child on the date on which the deceased last ceased to hold an employment or appointment mentioned in regulation 3(1)(*a*) to (*d*) or on the date on which his earning ability was reduced as a result of the injury or disease, whichever is the later.

(3) An allowance shall not be payable to or in respect of a child after he has attained the age of 16 years unless he is, and at all times since attaining that age has been, receiving full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, so, however, that the Department may disregard a break in the education or training of that child if it is satisfied that at the time of the break that education or training was not regarded as having been completed.

(4) An allowance payable under this regulation shall be paid to the child, or, in such proportion as the Department thinks fit, to the children, entitled thereto:

Provided that the Department may, if it thinks fit, pay the allowance to such other person or persons as it may specify and such person or persons shall apply such allowance in accordance with any directions given by the Department, for the benefit of the child or children entitled thereto.

(5) In this part—

(*a*) "child" includes illegitimate child, step-child or adopted child, and the expression "parent" shall be construed accordingly; and

(*b*) "brother" includes half-brother and step-brother and "sister" includes half-sister and step-sister.

Dependent relative's allowance

9.—(1) Subject to paragraph (4) and to regulation 10, on the death of a person mentioned in regulation 6 or, where an allowance is payable under regulation 7(2), on the termination of payment of that allowance, an annual allowance calculated in accordance with paragraph (2) or (3), as the case may be, shall be payable to—

(*a*) a parent who is either the deceased's mother or his father or his spouse's mother or father, and who was wholly or mainly dependent on the deceased at the date of his death; and

(*b*) each child who has attained the age of 16 years and is not receiving full-time education at an educational establishment or undergoing full-time training for a trade, profession or vocation, but who if he had not attained the age of 16 years would be entitled to an allowance under regulation 8, and who was incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living at the date of the death of the deceased or at the date he ceased to be entitled to an allowance under regulation 8, whichever is the later, and has at all times since then been so incapable,

(hereinafter referred to as "a dependent relative").

(2) The annual allowance payable to a dependent relative referred to in paragraph (1)(*a*) shall be payable to the first dependent relative therein mentioned who is eligible at any one time and shall be the amount, if any, which when added to the annual amount of any pension payable under the relevant pension scheme in respect of the deceased to that dependent relative will provide an income of 20 per cent of the deceased's average remuneration, or of 45 per cent during any period in which there is no widow or widower of the deceased to whom an allowance is or might be payable under regulation 7:

Provided that where the Department is satisfied that during any period that dependent relative is not being maintained by a surviving spouse of the deceased, it may pay the allowance during such period as if there were no surviving spouse.

(3) The annual allowance payable to a dependent relative referred to in paragraph (1)(*b*) shall be the amount, if any, which when added to the annual amount of any pension payable under the relevant pension scheme in respect of the deceased to that dependent relative will provide an income of 20 per cent of the deceased's average remuneration, or of 45 per cent where the dependent relative has no surviving parent:

Provided that where the Department is satisfied that during any period that dependent relative is not being maintained by a surviving parent, it may pay the allowance during such period as if there were no surviving parent.

(4) A dependent relative shall not be entitled to receive an allowance—

(*a*) if he subsequently marries or cohabits with another person as if he was married to that other person; or

(*b*) in respect of any period exceeding one month during which he is maintained out of moneys appropriated by measure or by order in Council under the Northern Ireland Act 1974 in a hospital or similar institution so maintained.

(5) An allowance payable to a dependent relative may be paid to such other person as the Department may specify and that person shall apply the benefits, in accordance with any directions given by the Department, for the benefit of that dependent relative.

(6) In paragraph (1)(*a*), a reference to a parent includes a reference to a step-parent and an adoptive parent.

Restriction of allowances

10. Where, apart from this regulation, the aggregate of the annual rates of allowances payable under regulation 7 to 9 and of any pensions or benefits taken into account in calculating the allowances would exceed the rate of the deceased's average remuneration, the individual allowances shall be reduced by such amounts as the Department may from time to time think fit so that such aggregate does not exceed the rate of the deceased's average remuneration.

Lump sum payment on death

11.—(1) On the death of a person mentioned in regulation 6 a lump sum of one-quarter of his average remuneration—

(*a*) shall be payable to the widow or widower to whom an allowance in respect of the deceased is payable under regulation 7;

(*b*) if not payable under (*a*) above, shall be payable to the child or among the children of the deceased or of his spouse, to whom an allowance in respect of the deceased is payable under regulation 8 or 9(1)(*b*) and (3); or

(*c*) if not payable under (*a*) or (*b*) above, shall be payable to a dependent relative to whom an allowance in respect of the deceased is payable under regulation 9(1)(*a*) and (2); or

(*d*) if not payable under (*a*), (*b*) or (*c*) above, shall be payable to any other child or among any other children to whom an allowance in respect of the deceased is payable under regulation 8 or 9(1)(*b*) and (3):

Provided that a lump sum shall not be paid under this regulation if a lump sum has been paid to the deceased under regulation 4(9) in respect of the same injury or disease.

(2) The provisions of regulation 8(4) or 9(5), as the case may be, shall apply in respect of a payment under paragraph (1)(*b*), (*c*) or (*d*).

Incidental provisions

12.—(1) For the purposes of this part, the amount of a pension payable under the relevant pension scheme shall not include any amount by which that pension is increased under the Pensions (Increase) Act (Northern Ireland) 1971 after the date at which the average remuneration used in the calculation of the allowance was calculated.

(2) Where the relevant pension scheme is a scheme mentioned in regulation 4(7), the pension payable under such a scheme shall, for the purposes of this part, be deemed to include such sum, if any, which, in the opinion of the Department represents the value, expressed as an annual amount, of the benefits payable under that scheme in respect of the deceased to the person entitled to the allowance.

(3) Where the deceased was a practitioner who received payments under regulation 65 of the superannuation regulations, there shall, for the purposes of regulations 7 to 9, be deemed to be payable under the relevant pension scheme a pension of such amount, if any, as the Department thinks fit, but not exceeding the amount of the widow's pension or the child's allowance, as the case may be, which would, if the deceased had not been entitled to such payments, have been payable under the superannuation regulations in respect of the period or periods for which such payments were made to him.

(4) Any child who becomes, or children who become, entitled to benefits in respect of more than one deceased shall be entitled to receive only those benefits in respect of that deceasd which, in the opinion of the Department, provide the more favourable result.

PART IV

REVIEW OF ALLOWANCE AND MISCELLANEOUS

Review and adjustment of allowance

13.—(1) The Department shall review the amount of an allowance payable under Part II in the light of—

(*a*) a further reduction of the person's earning ability by reason of the injury or disease;

(*b*) the commencement or cessation of payment to the person of a benefit mentioned in regulation 4(6)(*b*), by reason of the injury or disease; or

(*c*) the commencement of a pension payable to the person under a relevant pension scheme or an increase in such a pension not being an increase under the Pensions (Increase) Act (Northern Ireland) 1971; and for this purpose such pension shall be deemed to be reduced proportionately by the amount by which an official pension, that began on the date at which the average remuneration used in the calculation of the allowance was calculated, would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971 by the date of the increase or commencement of the first mentioned pension.

(2) A person not entitled to benefits under these regulations by reason only that his earning ability was not permanently reduced by more than 10 per cent shall be entitled to receive such benefits if, in consequence of further reduction by reason of the injury or disease, his earning ability is permanently reduced in aggregate by more than 10 per cent, except that such benefits shall not be payable in respect of any period before such reduction or for a period of more than 13 weeks before the Department is notified in writing of such reduction, whichever is the later.

(3) The Department shall review the amount of an allowance payable under Part III in the light of any reduction in, or the cessation of, a pension under the relevant pension scheme in respect of the deceased payable to the person entitled to such allowance.

(4) Where a person who has ceased to be employed as a person to whom these regulations apply and is in receipt of an allowance under Part II, again becomes employed in an employment mentioned in regulation 3(1), then, while he continues in such employment the allowance shall not exceed the amount for any quarter, or the rate, that would have been paid if the allowance had been a pension liable to reduction under regulation 32 of the superannuation regulations, and for the purpose of this paragraph—

(*a*) " re-employment earnings"—

(i) in relation to a person who holds an appointment mentioned in regulation 3(1)(*c*), means such amount which, in the opinion of the Department, would have been the earnings of an officer employed by an employing authority on duties being performed by such person; and

(ii) includes any pension payable under the relevant pension scheme uprated, where the allowance fell to be reduced as in paragraph (2) of the said regulation 32, to the last day of the quarter or, where the allowance fell to be reduced as in paragraph (3)(*a*) of that regulation, to the date on which the person became employed as aforesaid; and

(*b*) paragraph (3)(*b*)(i) of the said regulation 32 shall be disregarded.

Officers transferred in consequence of reorganisation

14.—(1) This regulation shall apply to or in respect of any person who was transferred to the employment of an employing authority under the Health and Personal Social Services (Northern Ireland) Order 1972 and who, having remained in the employment of that authority without a break of one day or more, suffers an injury or contracts a disease in respect of which, had he remained in his previous employment, he would have been eligible to receive benefits by virtue of any enactment, scheme or arrangement associated with that employment.

(2) Where the Department is of the opinion that, in relation to any person to whom or in respect of whom this regulation applies, any benefits specified in paragraph (1)—

(*a*) would, when taken as a whole, have been more favourable than any benefits payable under these regulations, or

(*b*) would have been payable where no benefits would have been payable under these regulations,

the Department, having regard to the provisions of such enactment, scheme or arrangement, may make such payments, to or in respect of such person, supplementary to any benefits which otherwise might be payable under these regulations, as the Department considers equitable so that the benefits, taken as a whole, are not less favourable than those which might have been payable under such provisions.

Damages

15.—(1) The Department shall take into account against the benefits provided in these regulations any damages or compensation which are recovered by any person in respect of the injury or disease or in respect of the death of a person to whom these regulations apply, and such benefits may be withheld or reduced accordingly.

(2) For the purposes of paragraph (1) a person shall be deemed to have recovered damages—

(*a*) whether they are paid in pursuance of a judgement or order of the Court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim; or

(*b*) if they are recovered for his benefit in respect of a claim under the Fatal Accidents Acts (Northern Ireland) 1846 to 1959.

(3) Without prejudice to paragraph (1), where any payments in respect of a benefit under these regulations are made before the right to, or the amount of, such damages or compensation is finally determined, then if and when a right to and the amount of such damages or compensation is finally determined the Department shall have the right to recover from the beneficiary an amount not exceeding—

(*a*) where the amount of the payments made by the Department is less than the net amount of the damages or compensation, the amount of those payments:

(*b*) where the amount of those payments is not less than the net amount of the damages or compensation, such part of those payments as is equal to the net amount of the damages or compensation.

(4) So far as any amount recoverable under this regulation represents a payment made by the Department from which income tax has been deducted before the payment, the proper allowance shall be made in respect of the

amount so deducted, and in this regulation the expression "the net amount of the damages or compensation" means the amount of the damages or compensation after deducting any tax payable in the United Kingdom or elsewhere to which the damages or compensation are subject.

(5) No proceedings shall be brought to recover any amount under this regulation—

(*a*) after the death of the recipient of the payments; or

(*b*) after the expiration of 2 years from the date on which a right to and the amount of the damages or compensation is finally determined or from the date on which the final determination first came to the knowledge of the Department, whichever date is the later.

(6) A certificate issued by the Department and stating the date on which the final determination of a right to and of the amount of any damages or compensation first came to its knowledge shall be admissible in any proceedings as sufficient evidence of that date.

Avoidance of duplicate benefits

16. If the Department is of the opinion that an injury or disease has been, or will be, taken into account for the purpose of any corresponding scheme the benefits of which or contributions towards which, are payable out of public funds, it may make such deduction from the benefits under these regulations as may appear to it to be equitable, in order to secure that there may not be payable in respect of the same injury or disease benefits under these regulations as well as benefits under a corresponding scheme.

Medical examination

17. The Department may require any person entitled, or claiming to be entitled, to an allowance under Part II, or under Part III on the grounds that he is incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living, to submit himself to a medical examination by a registered medical practitioner selected by the Department, and in that event the Department shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the Department shall take that report into consideration together with the report of the medical practitioner selected by the Department.

Benefits not assignable

18. Subject to the provisions of any enactment in that behalf, any benefit to which a person becomes entitled under these regulations shall be payable to, or in trust for, that person and shall not be assignable.

Payment to personal representatives

19. Where, on the death of any person, any sum not exceeding £500 is due to or in respect of that person under these regulations the Department may dispense with proof of the title of the personal representatives of that person and pay that sum to the person, or to or among any one or more of any persons, appearing to the Department on such evidence as it deems satisfactory to be entitled by law to a beneficial interest therein, or in the case of the illegitimacy of the deceased person or his children to or among such persons as the Department may think fit, and any person to whom such a payment is made, and not the Department, shall thereafter be liable to account for any amount so paid.

Determination of questions

20. Any question arising under these regulations as to the rights or liabilities of a person to whom the regulations apply, or of a person claiming to be treated as such, or of the widow or any dependant of such a person, shall be determined by the Department, whose determination shall be final.

Date from which regulations take effect

21. These regulations shall apply in relation to any person who, as a direct result of an injury or disease mentioned in regulation 3(1), ceases to be employed, or suffers a reduction of emoluments, on or after 25th May 1972.

Revocation

22.—(1) Regulation 9 of the superannuation regulations is hereby revoked with effect from 25th May 1972.

(2)(*a*) The revocation of the said regulation 9 shall not affect any allowance granted under that regulation to, or in respect of, a person who, as a direct result of an injury or disease, ceased to be employed before 25th May 1972 or to any person who so ceased to be employed after 24th May 1972 who is not entitled to any benefits under these regulations, and any such allowance shall be deemed to have been granted under these regulations;

(*b*) the provisions of the said regulation 9 shall be deemed to be provisions of these regulations in relation to such persons;

(*c*) the provisions of regulation 32 of the superannuation regulations shall apply in relation to a person referred to in paragraph (2)(*a*) as if the provisions of the said regulation 32 were provisions of these regulations and as if references in the said regulation 32 to any pension were references to an allowance referred to in paragraph (2)(*a*).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd April 1975.

(L.S.) *R. J. Christie*
Assistant Secretary

The Department of Finance hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 3rd April 1975.

(L.S.) *J. Armstrong*
Assistant Secretary

TABLE OF ENACTMENTS REFERRED TO IN THESE REGULATIONS

Title of Act or Instrument	*Session and chapter, etc.*
Fatal Accidents Act 1846	1846 c. 93.
Fatal Accidents Act 1864	1864 c. 95.
Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945	1945 c. 14 (N.I.).
Fatal Accidents Act (Northern Ireland) 1959	1959 c. 18 (N.I.).
National Insurance Act (Northern Ireland) 1966	1966 c. 6 (N.I.).
National Insurance (Industrial Injuries) Act (Northern Ireland) 1966	1966 c. 9 (N.I.).
National Insurance (No. 2) Act (Northern Ireland) 1966	1966 c. 16 (N.I.).
Pensions (Increase) Act (Northern Ireland) 1971	1971 c. 35 (N.I.).
Superannuation (Northern Ireland) Order 1972	S.I. 1972/1073 (N.I. 10).
Health and Personal Social Services (Northern Ireland) Order 1972	S.I. 1972/1265 (N.I. 14).
Pensions (Increase) (Northern Ireland) Order 1974	S.I. 1974/1267 (N.I. 2).
Health Services (Superannuation) Regulations (Northern Ireland) 1962	S.R. & O. (N.I.) 1962 No. 237 (p. 961).
Social Services (Parity) Order (Northern Ireland) 1971	S.R. & O. (N.I.) 1971 No. 224 (p. 1052).

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport)

1. These regulations provide for the payment, by the Department of Health and Social Services, of injury benefits to or in respect of any person engaged in the Health and Personal Social Services in Northern Ireland whose earning ability is reduced or who dies as a result of an injury suffered or disease contracted in the course of his duties.

2. Part I of the regulations contains definitions.

3. Part II specifies the persons to whom the regulations apply (regulation 3) and the scale of benefits (regulation 4). Where a person's earning ability is reduced permanently, an annual allowance of the amount necessary to provide an income, inclusive of certain social security and occupational pension scheme benefits, of a specified level is payable to that person according to the extent of the reduction of his earning ability and length of service. A lump sum is also payable to that person. There is provision for the payment of a temporary allowance to a person who, as a result of an injury or disease, is on sick leave with reduced pay.

4. Part III specifies the benefits payable in respect of a person who dies as a result of, or whose death was hastened by, an injury or disease. Allowances of the amount necessary to provide incomes, inclusive of certain social security and occupational pension scheme benefits, of a specified level are payable to a widow or an incapacitated widower (regulation 7), children (regulation 8) and dependent relatives (regulation 9). A lump sum may also be payable to one of these persons (regulation 11).

5. Part IV provides for an allowance to be reviewed and varied in the light of changed circumstances (regulation 13), supplementary payments for certain transferred officers (regulation 14), the taking into account of damages recovered by or in respect of the injured person (regulation 15), the avoidance of duplicate benefits (regulation 16) and the determination of questions (regulation 20).

6. In accordance with section 14(1) of the Superannuation (Northern Ireland) Order 1972, these regulations have retrospective effect in relation to any person who, as a direct result of the injury or disease, ceases to be employed or suffers a reduction in pay on or after 25th May 1972 (regulation 21).