

STATUTORY INSTRUMENTS

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## 1997 No. 1183

# The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

### *Introductory*

#### Cases in which this Order applies **N.I.**

- 3.—(1) This Order applies in cases where—
- (a) a person makes a payment (whether on his own behalf or not) to or in respect of any other person in consequence of any accident, injury or disease suffered by the other, and
  - (b) any listed benefits have been, or are likely to be, paid to or for the other during the relevant period in respect of the accident, injury or disease.
- (2) The reference in paragraph (1)(a) to a payment in consequence of any accident, injury or disease is to a payment made—
- (a) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the accident, injury or disease, or
  - (b) in pursuance of a compensation scheme for motor accidents,
- but does not include a payment mentioned in Part I of Schedule 1.
- (3) Paragraph (1)(a) applies to a payment made—
- (a) voluntarily, or in pursuance of a court order or an agreement, or otherwise, and
  - (b) in the United Kingdom or elsewhere.
- (4) In a case where this Order applies—
- (a) the “injured person” is the person who suffered the accident, injury or, disease,
  - (b) the “compensation payment” is the payment within paragraph (1)(a), and
  - (c) “recoverable benefit” is any listed benefit which has been or is likely to be paid as mentioned in paragraph (1)(b).

VALID FROM 27/08/2008

#### [<sup>F1</sup>Lump sum payments: regulation-making power **N.I.**

- 3A.—(1) The Department may by regulations make provision about the recovery of the amount of a payment to which paragraph (2) applies (a “lump sum payment”) where—
- (a) a compensation payment in consequence of a disease is made to or in respect of a person (“P”) to whom, or in respect of whom, a lump sum payment has been, or is likely to be, made, and
  - (b) the compensation payment is made in consequence of the same disease as the lump sum payment.

*Status: Point in time view as at 01/01/2006. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, Cross Heading: Introductory is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) This paragraph applies to—
- (a) a payment made in accordance with the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 (in this Article referred to as “the 1979 Order”);
  - (b) a payment made in accordance with the Mesothelioma, etc., Act (Northern Ireland) 2008, and
  - (c) an extra-statutory payment (within the meaning given by paragraph (5)(d)).
- (3) Regulations under this Article may, in particular—
- (a) make provision about the recovery of the amount of a lump sum payment made to or in respect of a dependant of P;
  - (b) make provision enabling the recovery of the amount of a lump sum payment from a compensation payment (including provision enabling the recovery of an amount which reduces the compensation payment to nil);
  - (c) enable the amount of a lump sum payment made before commencement to be recovered from a compensation payment made after commencement;
  - (d) make provision about certificates in respect of lump sum payments;
  - (e) apply any provision of this Order, with or without modifications.
- (4) References in paragraph (1) to a payment made in consequence of a disease—
- (a) are references to a payment made by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the disease, but
  - (b) do not include references to a payment mentioned in Part 1 of Schedule 1.
- (5) In this Article—
- (a) “commencement” means the date on which this Article comes into operation,
  - (b) “compensation payment” means a payment within Article 3(1)(a),
  - (c) “dependant” has the meaning given by Article 5 of the 1979 Order, and
  - (d) “extra-statutory payment” means a payment made by the Department to or in respect of a person following the rejection by the Department of a claim under the 1979 Order.]

**F1** [Art. 3A](#) inserted (27.8.2008 for certain purposes otherwise 1.10.2008) by Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9), **ss. 8, 12(1)**; S.R. 2008/351, **art. 2(1)**, Sch.

#### **Compensation payments to which this Order applies** **N.I.**

**4.** This Order applies in relation to compensation payments made on or after the day on which this Article comes into operation, unless they are made in pursuance of a court order or agreement made before that day.

#### **“The relevant period”** **N.I.**

**5.—(1)** In relation to a person (“the claimant”) who has suffered any accident, injury or disease, “the relevant period” has the meaning given by the following paragraphs.

(2) Subject to paragraph (4), if it is a case of accident or injury, the relevant period is the period of five years from the day on which the accident or injury in question occurred.

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(3) Subject to paragraph (4), if it is a case of disease, the relevant period is the period of five years beginning with (and including) the date on which the claimant first claims a listed benefit in consequence of the disease.

(4) If at any time before the end of the period referred to in paragraph (2) or (3)—

- (a) a person makes a compensation payment in final discharge of any claim made by or in respect of the claimant and arising out of the accident, injury or disease, or
- (b) an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of any such claim,

the relevant period ends at that time.

**Status:**

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**Changes to legislation:**

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