
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 367

The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001

Part III

Benefits on Death of Injured Person

Child's allowance

9.—(1) Subject to the provisions of this regulation and to regulation 11, on the death of a person mentioned in regulation 7 or, where an allowance, is payable under regulation 8(2), on the termination of payment of that allowance, there shall be payable to any dependent child an annual allowance of the amount, if any, which, when added to the annual amount of any pension payable under a relevant pension scheme in respect of the deceased to, or for the benefit of, such child, 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 a child, it may pay the allowance to or for the benefit of that child as if there were no surviving parent.

- (2) Subject to the provisions of this regulation, "dependent child" means any child who is—
- (a) a child or grandchild of the deceased;
 - (b) a step-child of the deceased by a marriage entered into before the date which the deceased ceased to be in employment mentioned in regulation 3(1) or a child legally adopted by the deceased before that date;
 - (c) a brother or sister, or a child of a brother or sister, of the deceased or the deceased's spouse (any half-brother or step-brother being treated as a brother and any half-sister or step-sister being treated as a sister for this purpose); or
 - (d) a child who, immediately before the deceased ceased to be in employment mentioned in regulation 3(1), the deceased had intended to adopt or a child who at that time had been dependant on the deceased for two years or (if less) for half of the child's life;

and who satisfies the requirements of paragraph (3).

(3) The requirements of this paragraph are satisfied by any child described in paragraph (2) who was—

- (a) born before the deceased ceased to be in employment mentioned in regulation 3(1) and who was dependent on the deceased when the deceased died and, if the deceased died after ceasing to be in employment mentioned in regulation 3(1), was also dependent on the deceased when the deceased ceased to be in such employment; or
- (b) born one year or less after the deceased ceased to be in employment mentioned in regulation 3(1) and who either was dependent on the deceased both immediately after

being born and when the deceased died, or would have become dependent on the deceased if the deceased had not died before the child was born.

- (4) A child is a dependent child for so long as he is—
- (a) under age 17; or
 - (b) aged 17 or over and continuing in full-time education; or
 - (c) aged 17 or over and participating in full-time training for a trade, profession or vocation, for which he is not receiving remuneration in excess of the allowable maximum; or
 - (d) aged 17 or over and taking a break in such full-time education or training providing the Department is satisfied that the child intends to return to some such education or training.

(5) A child who is aged 17 or over and who has ceased to be a dependent child will be treated as a dependent child if he returns to full-time education, or to full-time training for a trade, profession or vocation for which he is not receiving remuneration in excess of the allowable maximum, before reaching age 21 and within 12 months after ceasing to be a dependent child.

(6) In this regulation, the “allowable maximum” means the amount to which a pension under the superannuation scheme Regulations of £1807 a year beginning on 8th April 1994 would have been increased under Part I of the Pension (Increase) Act (Northern Ireland) 1971 at the date in question (calculated as if the words “for a period of not less than two years” in section 3(3)(d) of that Act were omitted), plus the yearly amount of any expenses necessarily incurred for the purposes of education or training.

(7) 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 entitled thereto.