

SCHEDULES

SCHEDULE 4

Article 24.

RECOVERY OF SUMS EQUIVALENT TO BENEFIT FROM COMPENSATION PAYMENTS IN RESPECT OF ACCIDENTS, ETC: SUPPLEMENTARY PROVISION

PART I

INTERPRETATION

1.—(1) In this Schedule—

“the recoupment provisions” means the provisions of Article 24 and this Schedule;

“the relevant deduction” means the deduction required to be made from the compensation payment in question by virtue of the recoupment provisions;

“the relevant payment” means the payment required to be made to the Department by virtue of the recoupment provisions;

“the total benefit” means the gross amount referred to in Article 24(1)(a).

(2) If, after making the relevant deduction from the compensation payment, there would be no balance remaining for payment to the intended recipient, any reference in this Schedule to the making of the compensation payment shall be construed in accordance with regulations.

(3) Expressions used in this Schedule and in Article 24 have the same meaning in this Schedule as they have in that Article.

PART II

PAYMENTS, DEDUCTIONS AND CERTIFICATES

Time for making payment to Department

2. The compensator’s liability to make the relevant payment arises immediately before the making of the compensation payment, and he shall make the relevant payment before the end of the period of 14 days following the day on which the liability arises.

The certificate of total benefit

3.—(1) It shall be for the compensator to apply to the Department for the certificate of total benefit and he may, subject to sub-paragraph (5), from time to time apply for fresh certificates.

(2) The certificate of total benefit shall specify—

(a) the amount which has been, or is likely to be, paid on or before a specified date by way of any relevant benefit which is capable of forming part of the total benefit;

(b) where applicable—

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- (i) the rate of any relevant benefit which is, has been, or is likely to be, paid after the date so specified and which would be capable of forming part of the total benefit; and
 - (ii) the intervals at which any such benefit is paid and the period for which it is likely to be paid;
 - (c) the amounts (if any) which, by virtue of the recoupment provisions, are to be treated as increasing the total benefit; and
 - (d) the aggregate amount of any relevant payments made on or before a specified date (reduced by so much of that amount as has been paid by the Department to the intended recipient before that date in consequence of the recoupment provisions).
- (3) On issuing a certificate of total benefit, the Department shall be taken to have certified the total benefit as at every date for which it is possible to calculate an amount that would, on the basis of the information so provided, be the total benefit as at that date, on the assumption that payments of benefit are made on the days on which they first become payable.
- (4) The Department may estimate, in such manner as it thinks fit, any of the amounts, rates or periods specified in the certificate of total benefit.
- (5) A certificate of total benefit shall remain in force until such date as may be specified in the certificate for that purpose and no application for a fresh certificate shall be made before that date.
- (6) Where a certificate ceases to be in force, the Department may issue a fresh certificate, whether or not an application has been made to it for such a certificate.
- (7) The compensator shall not make the compensation payment at any time when there is no certificate of total benefit in force in respect of the victim, unless his liability to make the relevant deduction and the relevant payment has ceased to be enforceable by virtue of paragraph 15.

Exemption from deduction in cases involving small payments

- 4.—(1) Regulations may make provision exempting persons from liability to make the relevant deduction or the relevant payment in prescribed cases where the amount of the compensation payment in question, or the aggregate amount of two or more connected compensation payments, does not exceed the prescribed sum.
- (2) Regulations may make provision for cases where an amount has been deducted and paid to the Department which, by virtue of regulations under sub-paragraph (1), ought not to have been so deducted and paid, and any such regulations may, in particular, provide for the Department to pay that amount to the intended recipient or the compensator or to pay a prescribed part of it to each of them.
- (3) The reference in Article 24(4)(a) to a “small payment” is a reference to a payment from which by virtue of this paragraph no relevant deduction falls to be made.
- (4) For the purposes of this paragraph—
- (a) two or more compensation payments are “connected” if each is made to or in respect of the same victim and in respect of the same accident, injury or disease; and
 - (b) any reference to a compensation payment is a reference to a payment which would be such a payment apart from Article 24(4)(a).

Multiple compensation payments

- 5.—(1) This paragraph applies where—
- (a) a compensation payment has been made (an “earlier payment”) to or in respect of the victim; and

- (b) subsequently another such payment (a “later payment”) falls to be made to or in respect of the same victim in respect of the same accident, injury or disease (whether by the same or another compensator).

(2) In determining the amount of the relevant deduction and payment required to be made in connection with the later payment, the amount referred to in Article 24(1)(a) shall be reduced by the amount of any relevant payment made in connection with the earlier payment, or, if more than one, the aggregate of those relevant payments.

(3) In relation to the later payment, the compensator shall take the amount of the reduction required by sub-paragraph (2) to be such as may be specified under paragraph 3(2)(d) in the certificate of total benefit issued to him in connection with that later payment.

(4) In any case where—

- (a) the relevant payment made in connection with an earlier payment is not reflected in the certificate of total benefit in force in relation to a later payment; and
- (b) in consequence, the aggregate of the relevant payments made in relation to the later payment and every earlier payment exceeds what it would have been had that relevant payment been so reflected,

the Department shall pay the intended recipient an amount equal to the excess.

(5) In determining any rights and liabilities in respect of contribution or indemnity, relevant payments shall be treated as damages paid to or for the intended recipient in respect of the accident, injury or disease in question.

Collaboration between compensators

6.—(1) This paragraph applies where compensation payments in respect of the same accident, injury or disease fall (or apart from the recoupment provisions would fall) to be made to or in respect of the same victim by two or more compensators.

(2) Where this paragraph applies, any two or more of those compensators may give the Department notice that they are collaborators in respect of compensation payments in respect of that victim and that accident, injury or disease.

(3) Where such a notice is given and any of the collaborators makes a relevant payment in connection with such a compensation payment, each of the other collaborators shall be treated as if the aggregate amount of relevant payments specified in his certificate of total benefit, as in force at the time of that relevant payment, or in a fresh certificate which does not purport to reflect the payment, were increased by the amount of that payment.

Structured settlements

7.—(1) This paragraph applies where—

- (a) in final settlement of a person’s claim, an agreement is entered into—
 - (i) for the making of periodical payments (whether of an income or capital nature) to or in respect of the victim; or
 - (ii) for the making of such payments and one or more lump sum payments; and
- (b) apart from this paragraph, those payments would fall to be regarded for the purposes of the recoupment provisions as compensation payments.

(2) Where this paragraph applies, the recoupment provisions (other than this paragraph) shall have effect on the following assumptions, that is to say—

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- (a) the relevant period in the case of the compensator in question shall be taken to end (if it has not previously done so) on the day of settlement;
- (b) the compensator in question shall be taken—
 - (i) to have been liable to make on that day a single compensation payment of the amount referred to in Article 24(1)(a) (reduced or increased in accordance with such of the recoupment provisions as would have applied in the case of a payment on that day); and
 - (ii) to have made from that single payment a relevant deduction of an amount equal to it; and
- (c) the payments under the agreement referred to in sub-paragraph (1) shall be taken to be exempt payments.

(3) The intended recipient shall not by virtue of anything in this paragraph become entitled to be paid any sum, whether by the compensator or the Department, and if on a review or appeal under paragraph 16 or 18 it appears that the amount paid by a compensator in pursuance of this paragraph was either greater or less than it ought to have been, then—

- (a) any excess shall be repaid to the compensator instead of to the intended recipient; but
- (b) any deficiency shall be paid to the Department by the intended recipient.

(4) Where any further compensation payment falls to be made to or in respect of the victim otherwise than under the agreement in question, sub-paragraph (2)(a) shall be disregarded for the purpose of determining the end of the relevant period in relation to that further payment.

(5) In any case where—

- (a) the person making the periodical payments (“the secondary party”) does so in pursuance of arrangements entered into with another (as in a case where an insurance company purchases an annuity for the victim from another such company); and
- (b) apart from those arrangements, that other (“the primary party”) would have been regarded as the compensator,

then for the purposes of the recoupment provisions, the primary party shall be regarded as the compensator and the secondary party shall not be so regarded.

(6) In determining for the purposes of this paragraph whether any periodical payments would fall to be regarded as compensation payments, Article 24(4)(a) shall be disregarded.

(7) In this paragraph “the day of settlement” means—

- (a) if the agreement referred to in sub-paragraph (1) is approved by a court, the day on which that approval is given; and
- (b) in any other case, the day on which that agreement is entered into.

Insolvency

8. Where the intended recipient has been adjudged bankrupt, nothing in the Bankruptcy Acts (Northern Ireland) 1857 to 1980 shall affect the operation of the recoupment provisions.

Protection of legal aid charges

9.—(1) In any case where—

- (a) the compensation payment is subject to any charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(1); and

(1) 1981 NI 8

- (b) after the making of the relevant deduction, the balance of the compensation payment is insufficient to satisfy that charge,

the Department shall make such a payment as will secure that the deficiency is made good to the extent of the relevant payment.

(2) Where the Department makes a payment under this paragraph, then, for the purposes of paragraph 3, the amount of the payment shall be treated as increasing the total benefit.

Overpaid benefits

10. In any case where—

- (a) during the relevant period, there has, in respect of the accident, injury or disease, been paid to or for the victim any relevant benefit to which he was not entitled (“the overpaid benefit”); and
- (b) the amount of the relevant payment is such that, after taking account of the rest of the total benefit, there remains an amount which represents the whole or any part of the overpaid benefit,

then, notwithstanding anything in Article 54 of the 1986 Order or any regulations under that Article, the receipt by the Department of the relevant payment shall be treated as the recovery of the whole or, as the case may be, that part of the overpaid benefit.

Death

11. In the case of any compensation payment the whole or part of which is made—

- (a) in consequence of an action under the Fatal Accidents (Northern Ireland) Order 1977(2); or
- (b) in circumstances where, had an action been brought, it would have been brought under that Order,

regulations may make provision for estimating or calculating the portion of the payment which is to be regarded as so made for the purposes of Article 24(4)(c).

Payments into court

12.—(1) Nothing in the recoupment provisions requires a court to make any relevant deduction or payment in connection with money in court.

(2) Where a party to an action makes a payment into court which, had it been paid directly to the other party, would have constituted a compensation payment, the making of that payment shall be regarded for the purposes of the recoupment provisions as the making of a compensation payment, but the compensator—

- (a) may either—
 - (i) withhold from such a payment into court an amount equal to the relevant deduction; or
 - (ii) make such a payment into court before the certificate of total benefit has been issued to him; and
- (b) shall not become liable to make the relevant payment, or to furnish a certificate of deduction, until he has been notified that the payment into court has been paid out of court to or for the other party.

(2) 1977 NI 18

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(3) Where a person making a payment into court withholds an amount in accordance with sub-paragraph (2)(a)(i)—

- (a) he shall, at the time when he makes that payment, furnish the court with a certificate of the amount so withheld; and
- (b) the amount paid into court shall be regarded as increased by the amount so certified;

but no person shall be entitled by virtue of this sub-paragraph to the payment out of court of any amount which has not in fact been paid into court.

(4) Where a payment into court is made as mentioned in sub-paragraph (2)(a)(ii), the compensator—

- (a) shall apply for the certificate of total benefit no later than the day on which the payment into court is made; and
- (b) shall become liable to make the relevant payment as mentioned in sub-paragraph (2)(b), notwithstanding that the relevant deduction has not been made.

(5) Where any such payment into court as is mentioned in sub-paragraph (2) is paid out of court to or for the other party to the action within the initial period, then, as respects the compensator in question, the relevant period shall be taken to have ended on the day on which the payment into court was made.

(6) In sub-paragraph (5) “the initial period” means the period of 21 days following the making of the payment into court, but rules of court and county court rules may make provision varying the length of that period.

(7) Rules of court and county court rules may make provision regulating or prescribing the practice and procedure to be followed in relation to such payments into court as are mentioned in sub-paragraph (2).

PART III

ADMINISTRATION AND ADJUDICATION

Provision of information

13.—(1) Any 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 prescribed information relating to any person seeking compensation, or in respect of whom compensation is sought, in respect of that accident, injury or disease.

(2) Any person who claims a relevant benefit or who has been in receipt of such a benefit or, if he has died, the personal representatives of such a person, shall furnish the Department with the prescribed information relating to any accident, injury or disease suffered by that person.

(3) 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 the prescribed information relating to the payment of statutory sick pay in respect of that person.

(4) In sub-paragraph (3) “employer” has the same meaning as it has in Part II of the 1982 Order.

(5) Any person furnishing information under this paragraph shall do so in the prescribed manner, at the prescribed place and within the prescribed time.

Applications for certificates of total benefit

14.—(1) If at any time before he makes the compensation payment in question the compensator applies to the Department in accordance with paragraph 3 for a certificate of total benefit relating to the victim in question—

- (a) the Department shall furnish him with such a certificate before the end of the period of 4 weeks, or such other number of weeks as may be prescribed, following the day on which the application is, or is deemed in accordance with regulations to be, received; and
- (b) any certificate so furnished shall, in particular, specify for the purposes of paragraph 3(2)
 - (a) a date not earlier than the date of the application.

(2) Where it furnishes any person with a certificate of total benefit, the Department shall also provide the information contained in that certificate to the person who appears to the Department to be the victim in relation to the compensation payment in question.

(3) The victim may apply to the Department for particulars of the manner in which any amount, rate or period specified in a certificate of total benefit has been determined.

Liability of compensator unenforceable if certificate not issued within time limit

15.—(1) The liability of the compensator to make the relevant deduction and payment relating to the first compensation payment after the default date shall not be enforceable if—

- (a) he has made a request under paragraph 14(1) which—
 - (i) accurately states the prescribed particulars relating to the victim and the accident, injury or disease in question; and
 - (ii) specifies the name and address of the person to whom the certificate is to be sent;
- (b) he has in his possession a written acknowledgment, sent to him in accordance with regulations, of the receipt of the request; and
- (c) the Department does not, within the time limit referred to in paragraph 14(1) send the certificate to the person specified in the request as the person to whom the certificate is to be sent, at the address so specified,

and accordingly, where those liabilities cease to be enforceable, nothing in the recoupment provisions shall prevent the compensator from making that compensation payment.

(2) In any case where—

- (a) the liability to make the relevant deduction and payment becomes unenforceable by virtue of this paragraph; but
- (b) the compensator nevertheless makes that deduction and payment,

he shall be treated for all purposes as if the liability had remained enforceable.

(3) Where the compensator, in reliance on this paragraph, does not make the relevant deduction and payment, then—

- (a) he shall within 14 days of the default date give the Department notice of that fact together with such other particulars as may be prescribed; and
- (b) in determining the amount of the relevant deduction and payment to be made in connection with any subsequent compensation payment made by the same or any other compensator, the amount which, apart from this paragraph, would have fallen to be deducted and paid by him shall continue to form part of the total benefit and shall not be treated as if it had been paid.

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(4) If, in the opinion of the Department, circumstances have arisen which adversely affect normal methods of communication—

- (a) the Department may by order provide that no liability shall become unenforceable by virtue of this paragraph during a specified period not exceeding 3 months; and
- (b) the Department may continue any such order in force for further periods not exceeding 3 months at a time.

(5) In this paragraph “the default date” means the date on which the time limit mentioned in sub-paragraph (1)(c) expires.

Review of certificates of total benefit

16.—(1) The Department may review any certificate of total benefit if the Department is satisfied that it was issued in ignorance of, or was based on a mistake as to, some material fact or that a mistake (whether in computation or otherwise) has occurred in its preparation.

(2) On any such review the Department may either—

- (a) confirm the certificate; or
- (b) issue a fresh certificate containing such variations as it considers appropriate,

but the Department shall not so vary the certificate as to increase the total benefit.

(3) In any case where—

- (a) one or more relevant payments have been made; and
- (b) in consequence of a review under this paragraph, it appears that the aggregate amount so paid exceeds the amount that ought to have been paid,

the Department shall pay the intended recipient an amount equal to the excess.

Appeals

17.—(1) An appeal shall lie in accordance with this paragraph against any certificate of total benefit at the instance of the compensator, the victim or the intended recipient, on the ground—

- (a) that any amount, rate or period specified in the certificate is incorrect; or
- (b) that benefit paid or payable otherwise than in consequence of the accident, injury or disease in question has been brought into account.

(2) No appeal shall be brought under this paragraph until—

- (a) the claim giving rise to the compensation payment has been finally disposed of; and
- (b) the relevant payment, or where more than one such payment may fall to be made, the final relevant payment, has been made.

(3) Notwithstanding sub-paragraph (2), where—

- (a) an award of provisional damages has been made under paragraph 10 of Schedule 6 to the Administration of Justice Act 1982(3); and
- (b) the relevant payment or, where more than one such payment falls to be made, the final relevant payment in relation to the provisional damages so awarded has been made,

an appeal may be brought under this paragraph against any certificate of total benefit by reference to which the amount of that relevant payment, or any of those relevant payments, was made.

(4) Regulations may—

(3) 1982 c. 53

- (a) make provision as to the manner in which, and the time within which, appeals under this paragraph are to be brought; and
- (b) make provision for the purpose of enabling any such appeal to be treated as an application for review under paragraph 16,

and regulations under head (b) may, in particular, provide that the circumstances in which such a review may be carried out shall not be restricted to those specified in paragraph 16.

(5) If any of the medical questions arises for determination on an appeal under this paragraph, the Department shall refer that question to a medical appeal tribunal, whose determination shall be binding, for the purposes of the appeal, on any social security appeal tribunal to whom a question is referred under sub-paragraph (7).

(6) A medical appeal tribunal, in determining any of the medical questions, shall take into account any decision of any court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.

(7) If any question concerning any amount, rate or period specified in the certificate of total benefit arises for determination on an appeal under this paragraph, the Department shall refer that question to a social security appeal tribunal, but where any medical questions arising on the appeal have been referred to a medical appeal tribunal—

- (a) the Department shall not refer any question to the social security appeal tribunal until the Department has received the determination of the medical appeal tribunal on the questions referred to them; and
- (b) the Department shall notify the social security appeal tribunal of the determinations of the medical appeal tribunal.

(8) On a reference under sub-paragraph (7) a social security appeal tribunal may either—

- (a) confirm the amounts, rates and periods specified in the certificate of total benefit; or
- (b) specify any increases, reductions or other variations which are to be made on the issue of the fresh certificate under sub-paragraph (9).

(9) When the Department has received the determinations of the tribunals on the questions referred to them under sub-paragraphs (5) and (7), it shall in accordance with those determinations either—

- (a) confirm the certificate against which the appeal was brought; or
- (b) issue a fresh certificate.

(10) Regulations may make provision with respect to the procedure for the reference under this paragraph of questions to medical appeal tribunals or social security appeal tribunals.

(11) An appeal shall lie to a Commissioner at the instance of the compensator, the victim or the intended recipient from a decision of a medical appeal tribunal or a social security appeal tribunal under this paragraph on the ground that the decision was erroneous in point of law; and for the purposes of appeals under this sub-paragraph—

- (a) section 101(5), (5A) and (5B) of the principal Act shall apply in relation to an appeal from the decision of a social security appeal tribunal; and
- (b) section 112A(3) of that Act shall apply in relation to an appeal from the decision of a medical appeal tribunal.

(12) In this paragraph “the medical questions” means—

- (a) any question whether, as the result of a particular occurrence, a person suffered an injury, sickness or disease;
- (b) any question as to the period for which a person suffered any injury, sickness or disease.

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Recovery in consequence of an appeal

18.—(1) Where it appears, in consequence of an appeal under paragraph 17, that the aggregate amount of the relevant payment or payments actually made exceeds the amount that ought to have been paid, the Department shall pay the intended recipient an amount equal to that excess.

(2) Where it appears, in consequence of such an appeal, that the aggregate amount of the relevant payment or payments actually made is less than the amount that ought to have been paid, the intended recipient shall pay the Department an amount equal to the deficiency.

(3) Without prejudice to any other method of enforcement, an amount payable under sub-paragraph (2) may be recovered by deduction from any benefits which are prescribed benefits for the purposes of Article 54 of the 1986 Order (recovery of overpayments).

Recovery of relevant payment in cases of default

19.—(1) This paragraph applies in any case where the compensator has made a compensation payment but—

- (a) has not requested a certificate of total benefit in respect of the victim; or
- (b) if he has done so, has not made the relevant payment within the time limit imposed by paragraph 2.

(2) Where this paragraph applies, the Department may—

- (a) if no certificate of total benefit has been issued to the compensator, issue to him such a certificate and a demand for the relevant payment to be made forthwith; or
- (b) if a certificate of total benefit has been issued to the compensator, issue to him a copy of that certificate and such a demand,

and that relevant payment shall, to the extent that it does not exceed the amount of the compensation payment, be recoverable by the Department from the compensator.

(3) Any amount recoverable under this paragraph shall, if the county court so orders, be enforceable as if it were payable under an order of the court.

(4) A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Department; and
- (b) states that the document, apart from the certificate, is a record of the amount recoverable under this paragraph,

shall be conclusive evidence that that amount is so recoverable; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.

(5) Where this paragraph applies in relation to two or more connected compensators, the Department may proceed against them as if they were jointly and severally liable for an amount equal to the difference between—

- (a) the total benefit determined in accordance with the latest connected certificate of total benefit issued to any of them; and
- (b) the aggregate amount of any connected relevant payments previously made.

(6) Nothing in sub-paragraph (5) authorises the recovery from any person of an amount in excess of the compensation payment by virtue of which this paragraph applies to him (or, if there are two or more such payments which are connected, the aggregate amount of those payments).

(7) In sub-paragraphs (5) and (6), “connected” means relating to the same victim and the same accident, injury or disease.

Inspection

20.—(1) Article 59 of the 1986 Order (inspection) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph (2) (powers of inspector to enter, examine and enquire), for head (ii) of sub-paragraph (b) substitute the following head—

“(ii) for investigating the circumstances in which any accident, injury or disease which has given or may give rise to a claim for industrial injuries benefit, or for any benefit which is a relevant benefit for the purposes of the recoupment provisions, occurred or may have occurred, or was or may have been received or contracted;”.

(3) In sub-paragraph (c) of that paragraph, after head (ii) insert the following head—

“(iii) a compensation payment or a relevant payment, within the meaning of the recoupment provisions;”.

(4) In paragraph (3) (premises which are liable to inspection), after sub-paragraph (c) insert the following sub-paragraph—

“(d) any person—

(i) who is the compensator, within the meaning of the recoupment provisions, in relation to any such accident, injury or disease as is referred to in paragraph (2) (b)(ii); or

(ii) on whose behalf any such compensator has or may have made, or may make, a compensation payment, within the meaning of those provisions, carries on business or is to be found;”.

(5) In paragraph (6) (persons to furnish information required for ascertaining whether certain sums are or have been paid or payable), in sub-paragraph (a), after head (ii), insert the following head—

“(iii) any compensation payment or relevant payment, within the meaning of the recoupment provisions;”.

(6) In paragraph (7) (persons who are under a duty to provide information), in sub-paragraph (e) at the end add “or to make any compensation payment or relevant payment, within the meaning of the recoupment provisions”.

(7) After paragraph (9) add the following paragraph—

“(10) In this Article “the recoupment provisions” means Article 24 of, and Schedule 4 to, the Social Security (Northern Ireland) Order 1989 (recovery from damages, etc., of sums equivalent to benefit paid).”.

PART IV

MISCELLANEOUS

Foreign compensators: duties of intended recipient

21.—(1) Where, immediately before the making of the compensation payment, the compensator is not resident and does not have a place of business in Northern Ireland, any deduction, payment or other thing which would, apart from this paragraph, fall to be made or done under the recoupment provisions by the compensator shall instead be made or done by the intended recipient and references to the compensator shall be construed accordingly.

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(2) The Department may by regulations make such provision as it considers expedient for the purpose of modifying the recoupment provisions in their application in such a case.

Amendment of Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23)

22.—(1) In section 3, in subsection (1) (which requires that, in assessing damages, half of certain benefits shall be brought into account against loss of profits or earnings)—

- (a) after “contract,” insert “where this section applies”;
- (b) for the words from “against any loss” to “from the injuries” substitute “against them”; and
- (c) for the words from “therefrom” onwards substitute

“from the injuries in respect of—

- (a) any of the relevant benefits, within the meaning of Article 24 of the Social Security (Northern Ireland) Order 1989; or
- (b) any corresponding benefits payable in Great Britain,

for the five years beginning with the time when the cause of action accrued.”

(2) After that subsection insert the following subsection—

“(1A) This section applies in any case where the amount of the damages that would have been awarded apart from any reduction under subsection (1) above is less than the sum for the time being prescribed under paragraph 4(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1989 (recoupment of benefit: exception for small payments).”

(3) Subsection (2) of that section (disregard of increase for constant attendance) shall cease to have effect.