STATUTORY INSTRUMENTS

2016 No. 999 (N.I. 1)

SOCIAL SECURITY

The Welfare Reform and Work (Northern Ireland) Order 2016

Made - - - - 12th October 2016

Coming into force in accordance with Article 2

At the Court at Buckingham Palace, the 12th day of October 2016

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order has been approved by a resolution of each House of Parliament.

Her Majesty, in exercise of the powers conferred by section 1 of the Northern Ireland (Welfare Reform) Act 2015 (c. 34), is pleased, by and with the advice of Her Privy Council, to order as follows:—

Introductory

Citation and extent

1.—(1) This Order may be cited as the Welfare Reform and Work (Northern Ireland) Order 2016.

(2) This Order extends to Northern Ireland only.

Commencement

2.—(1) Except as provided by paragraph (2), the provisions of this Order come into force on such day or days as the Department may by order appoint.

(2) The following provisions come into force on the day after the day on which this Order is made—

(a) Article 1, this Article and Articles 3 and 4;

(b) Article 5 for the purposes of making regulations;

(c) Articles 6 to 8;

(d) Articles 17 to 22.

(3) An order under paragraph (1) may make such transitory or transitional provision or savings as the Department considers necessary or expedient.

Interpretation

3. In this Order—

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"the Department" means the Department for Communities;

"the Jobseekers Order" means the Jobseekers (Northern Ireland) Order 1995;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Department;

"the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007;

"the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015.

Transitory provision

4.—(1) Article 4 of the 2015 Order (transitory provision) applies in relation to this Order as it applies in relation to the 2015 Order.

(2) Accordingly, in that Article—

(a) in paragraph (1)(a) after "this Order" insert " or the Welfare Reform and Work (Northern Ireland) Order 2016 "; and

(b) in paragraph (6) at the end add " or under Article 2(1) of the Welfare Reform and Work (Northern Ireland) Order 2016 ".

Benefit cap

Benefit cap

5.—(1) Article 101 of the 2015 Order (benefit cap) is amended as set out in paragraphs (2) to (5).

(2) For paragraph (5) (meaning of the "relevant amount") substitute—

"(5) Regulations under this Article may make provision for determining the "relevant amount" for the reference period applicable in the case of a single person or couple by reference to the annual limit applicable in the case of that single person or couple.

(5A) For the purposes of this Article the "annual limit" is £20,000 or £13,400.

(5B) Regulations under paragraph (5) may—

(a) specify which annual limit applies in the case of—

(i) different prescribed descriptions of single person;

(ii) different prescribed descriptions of couple;

(b) provide for the rounding up or down of an amount produced by dividing the amount of the annual limit by the number of periods of a duration equal to the reference period in a year."

(3) Paragraph (6) (estimated average earnings) and the definition of "estimated average earnings" in paragraph (7) are omitted.

(4) In paragraph (7), in the definition of "welfare benefit", for the words from "means" to the end substitute—

"means—

(a) bereavement allowance (see section 39B of the Contributions and Benefits Act),

(b) child benefit (see section 137 of the Contributions and Benefits Act),

(c) child tax credit (see section 1(1)(a) of the Tax Credits Act 2002),

(d) employment and support allowance (see section 1 of the Welfare Reform Act (Northern Ireland) 2007), including income-related employment and support allowance (as defined in subsection (7) of that section),

(e) housing benefit (see section 129 of the Contributions and Benefits Act),

(f) incapacity benefit (see section 30A of the Contributions and Benefits Act),

(g) income support (see section 123 of the Contributions and Benefits Act),

(h) jobseeker's allowance (see Article 3 of the Jobseekers Order), including income-based jobseeker's allowance (as defined in paragraph (4) of that Article),

(i) maternity allowance under section 35 or 35B of the Contributions and Benefits Act 1992,

(j) severe disablement allowance (see section 68 of the Contributions and Benefits Act),

(k) universal credit,

(l) widow's pension (see section 38 of the Contributions and Benefits Act 1992),

(m) widowed mother's allowance (see section 37 of the Contributions and Benefits Act), or

(n) widowed parent's allowance (see section 39A of the Contributions and Benefits Act).”

(5) Paragraph (8) (benefits that regulations may not prescribe as welfare benefits) is omitted.

(6) Regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of paragraphs (1) to (5).

(7) Regulations under paragraph (6) may in particular—

(a) provide for Article 101 of the 2015 Order to have effect as if the amendments made by paragraphs (1) to (5) had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;

(b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;

(c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices.

(8) Regulations under paragraph (6) are subject to negative resolution.

Commencement Information

I1 Art. 5 partly in operation; art.5 in operation for specified purposes at 13.10.2016 see art. 2(2)(b)

I2 Art. 5 in operation at 7.11.2016 in so far as not already in operation by S.R. 2016/374, **art. 2**

Review of benefit cap

6.—(1) After Article 101 of the 2015 Order insert—

"**Benefit cap review**

101A.—(1) If the Secretary of State makes regulations under section 96A(4) of the Welfare Reform Act 2012 which amend section 96(5A)(b) of that Act, the Department may make corresponding regulations amending Article 101(5A).

(2) The regulations may provide for amendments of Article 101(5A) to come into force—

(a) on different days for different areas;

(b) on different days for different cases or purposes.

(3) The regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of any amendment made by the regulations.

(4) The regulations may in particular—

(a) provide for Article 101(5A) to have effect as if the amendments made by the regulations had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;

(b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;

(c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices."

(2) In Article 102 of the 2015 Order (benefit cap: supplementary) after paragraph (1) insert—

"(1A) Regulations under Article 101A must be laid before the Assembly after being made and take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of 6 months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly."

Functions of Social Security Advisory Committee in relation to benefit cap

7.—(1) In section 170 of the Social Security Administration Act 1992 (functions of Social Security Advisory Committee), in subsection (5), in the definition of "the relevant Northern Ireland enactments", after paragraph (al) insert—

"(ala) any provisions in Northern Ireland which correspond to sections 96 to 97 of that Act;".

(2) In section 149 of the Administration Act (functions of Social Security Advisory Committee) in subsection (5) after paragraph (ak) insert—

"(aka) Articles 101 to 102 of that Order;".

(3) In Schedule 5 to the Administration Act (regulations not requiring prior submission to Social Security Advisory Committee), after paragraph 3 insert—

"Benefit cap

3A. Regulations under Article 101A of the Welfare Reform (Northern Ireland) Order 2015."

Freeze on certain benefits

Freeze of certain social security benefits for 4 tax years

8.—(1) For each of the tax years ending with 5 April 2017, 5 April 2018, 5 April 2019 and 5 April 2020, the amount of each of the relevant sums is to remain the same as it was in the tax year ending with 5 April 2016.

(2) Accordingly, an up-rating order made under section 132 of the Administration Act in the tax years ending with 5 April 2017, 5 April 2018 and 5 April 2019 must not cover any of the relevant sums.

(3) In this Article—

"tax year" means a period beginning with 6 April in one year and ending with 5 April in the next;

"relevant sums" are the sums—

(a) specified in paragraph 1 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987;

(b) specified in paragraph 1 of Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006;

(c) specified in paragraph 25 of Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006;

(d) specified in regulations under Article 6(2) of the Jobseekers Order;

(e) specified in paragraph 1 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996;

(f) specified in regulations under section 2(1)(a) of the 2007 Act;

(g) specified in regulations under section 2(4)(c) of the 2007 Act, so far as relating to the component under section 2(3) of that Act;

(h) specified in paragraph 1 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008;

(i) specified in regulations under section 4(6)(c) of the 2007 Act, so far as relating to the component under section 4(5) of that Act;

(j) specified in regulations under Article 14(2) of the 2015 Order;

(k) specified in regulations under Article 15(3) of the 2015 Order in respect of an amount to be included under Article 15(2) of that Order (but where more than one sum is so specified, only the smaller or smallest of those sums is a "relevant sum");

(l) specified in regulations under Article 17(3) of the 2015 Order in respect of needs or circumstances of a claimant prescribed by virtue of Article 17(2)(a) of that Order (but not in respect of needs or circumstances prescribed by virtue of Article 17(2)(b)).

Employment and support allowance

Employment and support allowance: work related activity component

9.—(1) Part 1 of the 2007 Act (employment and support allowance) is amended as follows.

(2) In section 2 (amount of contributory allowance)—

(a) in subsection (1)(b), omit "or the work-related activity component";

(b) omit subsection (3);

(c) in subsection (4), in each of paragraphs (a), (b) and (c), omit "or (3)".