STATUTORY RULES OF NORTHERN IRELAND

1999 No. 428 (C. 32)

SOCIAL SECURITY

The Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Made - - - - 15th October 1999

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) and (4) of the Social Security (Northern Ireland) Order 1998(**1**) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999.

(2) In this Order "the Order" means the Social Security (Northern Ireland) Order 1998.

Appointed day

2. The day appointed for the coming into operation of—

(a) Articles 32 and 34 of the Order; and

(b) the provisions of the Order specified in Schedule 1, in so far as they are not already in operation, for the purposes of—

(i) attendance allowance, disability living allowance and invalid care allowance under Part III of the Contributions and Benefits Act,

(ii) jobseeker's allowance under Part II of the Jobseekers Order and any sum payable under Article 28 of that Order,

(iii) decisions whether a person is entitled to be credited with earnings or contributions in accordance with regulations made under section 22(5) of the Contributions and Benefits Act, and

(iv) decisions whether a person was, within the meaning of regulations, precluded from regular employment by responsibilities at home,

is 18th October 1999.

(**1**) S.I.1998/1506 (N.I. 10)

Commencement

3. This Article and Articles 4 to 17 shall come into operation on 18th October 1999.

Savings

4. Notwithstanding the coming into operation of Article 39(3) of the Order or regulation 59 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**2**)—

(a) sections 16 and 17 of the Administration Act;

(b) sections 57 to 59 of, and Schedule 3 to, that Act as they relate to regulations made in relation to those sections; and

(c) any regulations made under or in connection with the operation of any of those sections,

shall continue to have effect with respect to any decision made before 18th October 1999 by the Department under section 15 of that Act.

Consequential Amendments

Amendment of the Social Security (Claims and Payments) Regulations

5.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**3**) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation) after the definition of "the Jobseekers Order"(**4**) there shall be inserted the following definition—

""the 1998 Order" means the Social Security (Northern Ireland) Order 1998;".

(3) In regulation 3(g)(**5**) (claims not required for entitlement to benefit in certain cases)—

(a) in sub-paragraph (ii)—

(i) for "regulation 36(1A)" there shall be substituted "regulation 16(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999", and

(ii) after "ought to be revised" there shall be inserted "under Article 10 of the 1998 Order or superseded under Article 11 of that Order"; and

(b) in sub-paragraph (iv) after "revised" there shall be inserted "or superseded".

(4) In regulation 13A(**6**) (advance award of disability living allowance)—

(a) in paragraph (1) for "the adjudicating authority" and "that authority" there shall be substituted "the Department"; and

(b) in paragraph (3) for "An award under paragraph (1) or (2) shall be reviewed by the adjudicating authority" there shall be substituted "A decision pursuant to paragraph (1) or (2) to award benefit may be revised under Article 10 of the 1998 Order".

(5) In regulation 13C(**7**) (further claim for and award of disability living allowance)—

(a) in paragraph (2) for "adjudicating authority" there shall be substituted "Department"; and

(**2**) S.R. 1999 No. 162
(**3**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1989 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 7 and 83, S.R. 1993 Nos. 146, 149 and 375, S.R. 1994 Nos. 345 and 484, S.R. 1996 Nos. 85, 354 and 432 and S.R. 1998 Nos. 18 and 241
(**4**) The definition of "the Jobseekers Order" was inserted by regulation 2(2)(a) of S.R. 1996 No. 354
(**5**) Paragraph (g) was added by regulation 2(3) of S.R. 1996 No. 354
(**6**) Regulation 13A was inserted by regulation 7(1) of S.R. 1992 No. 7
(**7**) Regulation 13C was inserted by regulation 8 of S.R. 1992 No. 7

(b) in paragraph (3) for "An award under paragraph (2)(b) shall be reviewed by the adjudicating authority" there shall be substituted "A decision pursuant to paragraph (2)(b) to award benefit may be revised under Article 10 of the 1998 Order".

(6) In regulation 26A(**8**) (jobseeker's allowance) after "revised" in each place where it occurs there shall be inserted "or superseded".

(7) In Schedule 2(**9**) (special provisions relating to claims for jobseeker's allowance made during periods connected with public holidays), in paragraph 2(a) for "an adjudication officer" there shall be substituted "the Department".

Amendment of the Social Security (Attendance Allowance) Regulations

6.—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**10**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) after the definition of "the 1991 Order" there shall be inserted the following definition—

""the 1998 Order" means the Social Security (Northern Ireland) Order 1998;".

(3) In—

(a) regulation 7A(2)(a)(**11**) (persons to whom regulations 7 and 8 apply with modifications), in paragraph (1A)(b) and (c); and

(b) regulation 8(4)(b) and (c)(**12**) (exemption from regulations 6 and 7),

for "review" there shall be substituted "revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order".

Amendment of the Social Security (Disability Living Allowance) Regulations

7.—(1) The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**13**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the 1991 Order" there shall be inserted the following definition—

""the 1998 Order" means the Social Security (Northern Ireland) Order 1998;"; and

(b) for the definition of "adjudicating authority"(**14**) there shall be substituted the following definition—

""adjudicating authority" means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order;".

(3) In regulation 2(3)(b) (conditions as to residence and presence in Northern Ireland) for "review" there shall be substituted "revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order".

(4) In—

(**8**) Regulation 26A was inserted by regulation 2(14) of S.R. 1996 No. 354 and amended by regulation 6(2) of S.R. 1998 No. 182
(**9**) Schedule 2 was amended by regulation 2(20) of S.R. 1996 No. 354
(**10**) S.R. 1992 No. 20; relevant amending regulations are S.R. 1993 No. 149, S.R. 1994 No. 263 and S.R. 1997 No. 355
(**11**) Regulation 7A was inserted by regulation 2(3) of S.R. 1994 No. 263
(**12**) Paragraph (4) was added by regulation 5(4)(b) of S.R. 1993 No. 149
(**13**) S.R. 1992 No. 32; relevant amending regulations are S.R. 1993 Nos. 149 and 340, S.R. 1994 No. 263 and S.R. 1996 Nos. 225 and 290
(**14**) The definition of "adjudicating authority" was substituted by regulation 2(2)(d) of S.R. 1993 No. 340

(a) regulation 9A(2)(a)(**15**) (persons to whom regulations 9 and 10 apply with modifications), in paragraph (2A)(b) and (c);

(b) regulation 10(6)(b) and (c)(**16**) (exemption from regulations 8 and 9); and

(c) regulation 12B(9A)(b) and (c)(**17**) (exemption from regulation 12),

for "review" there shall be substituted "revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order".

(5) In Schedule 1 (persons aged 65 and over)—

(a) in paragraph 1 (review of an award made before a person attained the age of 65)—

(i) in the heading for "Review" there shall be substituted "Revision or supersession",

(ii) in sub-paragraph (1)(c)(**18**) for "in writing is made in accordance with section 28(7) or 33(4) of the Administration Act for that award to be reviewed" there shall be substituted "is made in accordance with Article 10 of the 1998 Order or Article 11 of that Order for that award to be revised or superseded",

(iii) in sub-paragraph (1)(d) for "both reviewed and revised" there shall be substituted "revised or superseded",

(iv) in sub-paragraph (2) for "revised award" there shall be substituted "revision or supersession", and

(v) in sub-paragraph (3) "for review" shall be omitted and for "reviewed" there shall be substituted "superseded";

(b) in paragraph 2 (review of an award other than a review to which paragraph 1 refers)—

(i) for "review", in each place where it occurs (including the heading), there shall be substituted "revision or supersession", for "reviews" there shall be substituted "revisions or supersessions" and for "reviewed" where it first occurs there shall be substituted "revised or superseded", and

(ii) in sub-paragraph (b) for "reviewed and revised" there shall be substituted "superseded";

(c) in paragraph 3 (persons aged 65 and over and entitled to the care component)—

(i) in sub-paragraph (1)(a)(**19**) for "revised on a review under section 28, 29 or 33 of the Administration Act" there shall be substituted "revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order", and

(ii) in sub-paragraph (2) for "under review" there shall be substituted "being revised or superseded"; and

(d) in—

(i) paragraph 5(1)(a)(**20**) (persons aged 65 and over and entitled to the higher rate mobility component),

(ii) paragraph 6(1)(a) (persons aged 65 and over and entitled to the lower rate mobility component), and

(iii) paragraph 7(1)(a) (award of the care component where a person is entitled to the mobility component),

(**15**) Regulation 9A was inserted by regulation 3(3) of S.R. 1994 No. 263
(**16**) Paragraph (6) was added by regulation 4(3)(b) of S.R. 1993 No. 149
(**17**) Regulation 12B was inserted by regulation 4(3) of S.R. 1996 No. 225 and paragraph (9A) was inserted by regulation 2(2) of S.R. 1996 No. 290
(**18**) Sub-paragraph (1)(c) was amended by regulation 2(11)(a) of S.R. 1993 No. 340
(**19**) Sub-paragraph (1)(a) was amended by regulation 2(11)(b) of S.R. 1993 No. 340
(**20**) Paragraphs 5(1)(a), 6(1)(a) and 7(1)(a) were amended by regulation 2(11)(b) of S.R. 1993 No. 340

for "revised on a review under section 28, 29 or 33 of the Administration Act" there shall be substituted "revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order".

Amendment of the Social Security (Incapacity for Work) (General) Regulations

8.—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**21**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) the definition of "disability appeal tribunal" shall be omitted.

(3) In regulation 17(1)(c) (exempt work)—

(a) "a disability appeal tribunal or" shall be omitted; and

(b) after "Board" there shall be inserted "or as a panel member with a disability qualification, as defined in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999, acting as a member of an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998".

Amendment of the Jobseeker's Allowance Regulations

9.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**22**) shall be amended in accordance with paragraphs (2) to (17).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the Registered Homes Order" there shall be inserted the following definition—

""the 1998 Order" means the Social Security (Northern Ireland) Order 1998;" and

(b) after the definition of "date of claim" there shall be inserted the following definition—

""the Decisions and Appeals Regulations" means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;".

(3) In—

(a) regulation 31(g) (contents of jobseeker's agreement);

(b) regulation 35 (automatic back-dating of a jobseeker's agreement);

(c) regulation 39 (variation of agreement: matters to be taken into account);

(d) regulation 70 (sanctions of discretionary length);

(e) regulation 101(11) (calculation of net profit of self-employed earners);

(f) regulation 139 (disregard of changes occurring during summer vacation); and

(g) regulation 140 (meaning of "person in hardship"),

for "an adjudication officer", in each place where it occurs, there shall be substituted "the Department".

(4) In regulation 31(g)—

(a) in sub-paragraph (ii) for "review" there shall be substituted "revision or supersession"; and

(b) in sub-paragraph (iii)—

(i) for "a social security appeal tribunal" there shall be substituted "an appeal tribunal", and

(**21**) S.R. 1995 No. 41, to which there are amendments not relevant to this order
(**22**) S.R. 1996 No. 198; relevant amending regulations are S.R. 1997 Nos. 165 and 541 and S.R. 1998 No. 421