STATUTORY RULES OF NORTHERN IRELAND

1999 No. 371 (C. 28)

SOCIAL SECURITY

The Social Security (1998 Order) (Commencement No. 8 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Made - - - - 3rd September 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. 8 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) Article 31 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) benefits under Part II of the Contributions and Benefits Act except child's special allowance,

(ii) severe disablement allowance under sections 68 and 69 of that Act,

(iii) benefits for the aged under sections 78 and 79 of that Act,

(iv) increases for dependants under Part IV of that Act, and

(v) graduated retirement benefit under sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(**2**),

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

(**2**) 1966 c. 6 (N.I.); sections 35 and 36 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978 (S.R. 1978 No. 105)

is 6th September 1999.

Commencement

3. This Article and Articles 4 to 19 shall come into operation on 6th September 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(**3**)—

(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 6th September 1999 by the Department under section 15 of that Act.

Consequential Amendments

Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations

5. Section 35(10) of the National Insurance Act (Northern Ireland) 1966 as continued in force by virtue of regulation 2(3) of, and Schedule 1 to, the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(**4**) shall be omitted.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

6.—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**5**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1 (interpretation)—

(a) in paragraph (2) for the definition of "the determining authority"(**6**) there shall be substituted the following definition—

> ""the determining 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 Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;"; and

(b) in paragraph (3) for "the Department or the determining authority whichever is appropriate" there shall be substituted "the determining authority".

(3) In regulation 4(2)(b)(i) (days to be treated as days of increment) for "the Department or the determining authority, whichever is appropriate," there shall be substituted "the determining authority".

(**3**) S.R. 1999 No. 162
(**4**) S.R. 1978 No. 105, to which there are amendments not relevant to this order
(**5**) S.R. 1979 No. 243; relevant amending regulations are S.R. 1984 No. 174
(**6**) The definition of "the determining authority" was substituted by regulation 14 of S.R. 1984 No. 174

Amendment of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations

7.—(1) The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979(**7**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(3) (interpretation) for ", a social security appeal tribunal or an adjudication officer" there shall be substituted "or an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998".

(3) In regulation 19 (provision relating to widow's pension for certain widows incapable of self-support by reason of an infirmity) paragraph (2) shall be omitted.

Amendment of the Social Security (Severe Disablement Allowance) Regulations

8.—(1) The Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(**8**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 10 (adjudication)—

(a) in paragraph (1)(i) for "an adjudicating medical authority" there shall be substituted "the Department or, as the case may be, an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998"; and

(b) paragraphs (3) and (4) shall be omitted.

(3) In regulation 17(3) (claims made before 29th November 1984) sub-paragraph (c) shall be omitted.

Amendment of the Income Support (General) Regulations

9.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**9**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 22A(**10**) (reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work)—

(a) in the heading and in paragraphs (1) and (3) after "against a decision" there shall be inserted "which embodies a determination"; and

(b) in paragraph (3) for "that decision" there shall be substituted "that determination".

(3) In regulations 71(1)(**11**) (applicable amounts in urgent cases) and 76(a)(**12**) (reduction in certain cases) after "against a decision" in each place where it occurs there shall be inserted "which embodies a determination".

(4) In Schedule 1B(**13**) (prescribed categories of person)—

(a) in the heading to paragraphs 24 to 28 after "decision" there shall be inserted "which embodies a determination";

(b) in paragraphs 24(c) and 25(b) after "against the" there shall be inserted "decision which embodies a"; and

(**7**) S.R. 1979 No. 244, to which there are amendments not relevant to this order. See also Article 3 of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))
(**8**) S.R. 1984 No. 317, to which there are amendments not relevant to this order
(**9**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 146 and S.R. 1996 No. 199
(**10**) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199
(**11**) Regulation 71(1) was amended by regulation 18 of S.R. 1996 No. 199
(**12**) Regulation 76 was inserted by regulation 28 of S.R. 1988 No. 146 and amended by regulation 21 of S.R. 1996 No. 199
(**13**) Schedule 1B was inserted by Schedule 1 to S.R. 1996 No. 199

(c) in paragraphs 26 and 27 after "decisions" there shall be inserted "which embody a determination".

Amendment of the Social Security (Incapacity Benefit — Increases for Dependants) Regulations

10. In regulation 3 of the Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994(**14**) (allocation of contributions for a spouse or child)—

(a) in paragraph (1) for "may be determined by the adjudicating authority so as to" there shall be substituted "would"; and

(b) in paragraph (3) the definition of "adjudicating authority" shall be omitted.

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

11.—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**15**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) the definitions of "adjudication officer" and "social security appeal tribunal" shall be omitted.

(3) In regulation 18(2) (disqualification for misconduct, etc.) for "may be determined under Part II of the Administration Act" there shall be substituted "the Department may determine".

Amendment of the Disability Working Allowance and Income Support (General) (Amendment) Regulations

12. In regulation 4(5) of the Disability Working Allowance and Income Support (General) (Amendment) Regulations (Northern Ireland) 1995(**16**) (transitional provisions with respect to the Income Support Regulations) for "an adjudication officer on or after 13th April 1995, determines" there shall be substituted "it is determined on or after 13th April 1995".

Amendment of the Social Security (Persons from Abroad) (Miscellaneous Amendments) Regulations

13. In Regulation 11(3) of the Social Security (Persons from Abroad) (Miscellaneous Amendments) Regulations (Northern Ireland) 1996(**17**) (saving) after "Social Security Administration (Northern Ireland) Act 1992" there shall be inserted "or a decision is made in relation to that entitlement under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998".

Modifications

Modification of the Social Security Benefit (Dependency) Regulations

14. The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**18**) shall have effect in relation to any benefit mentioned in Article 2(b) as if in regulation 1(2) (interpretation) for the definition of "the determining authority"(**19**) there were substituted the following definition —

> ""the determining 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 Social Security

(**14**) S.R. 1994 No. 485, to which there are amendments not relevant to this order
(**15**) S.R. 1995 No. 41, to which there are amendments not relevant to this order
(**16**) S.R. 1995 No. 67, to which there are amendments not relevant to this order
(**17**) S.R. 1996 No. 11, to which there are amendments not relevant to this order
(**18**) S.R. 1977 No. 74; relevant amending regulations are S.R. 1984 No. 174
(**19**) The definition of "the determining authority" was substituted by regulation 8 of S.R. 1984 No. 174

(Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;".

Modification of the Social Security (Claims and Payments) Regulations

15. The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**20**) shall have effect in relation to any benefit mentioned in Article 2(b) as if—

(a) in regulation 2(1) (interpretation)—

(i) after the definition of "the Jobseekers Order"(**21**) there were inserted the following definition—

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

(ii) the definition of "adjudicating authority" were omitted, and

(iii) in the definition of "claim for benefit" in paragraph (c) for "the review of an award or" in both places where it occurs there were substituted "a revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order of";

(b) in regulation 13 (advance claims and awards)—

(i) in paragraph (1) for "the adjudicating authority" and "that authority" there were substituted "the Department", and

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

(c) in regulation 17(7) (duration of awards) "; and where those requirements are not satisfied the award shall be reviewed" were omitted;

(d) in Part V (suspension and extinguishment)—

(i) in the heading "Suspension and", and

(ii) regulations 36 to 36B(**22**) (suspension and withholding of benefit),

were omitted; and

(e) in regulation 37(2A)(**23**) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period)—

(i) for "adjudicating authority" in both places where it occurs there were substituted "Department",

(ii) in sub-paragraph (a) for "the Department has" there were substituted "it", and

(iii) in sub-paragraph (c) "the Department has certified" and "that", in each place where it occurs, were omitted and, in head (ii), for "it" there were substituted "the Department".

(**20**) S.R. 1987 No. 465; relevant amending regulations are S. R. 1989 No. 398, S.R. 1992 Nos. 7 and 83, S.R. 1993 No. 375, S.R. 1994 Nos. 345 and 484, S.R. 1996 Nos. 85, 354 and 432 and S.R. 1998 No. 241

(**21**) The definition of "the Jobseekers Order" was inserted by regulation 2(2)(a) of S.R. 1996 No. 354

(**22**) Regulations 36 to 36B were substituted for regulation 36 by regulation 7(9) of S.R. 1992 No. 83, regulation 36 was amended by regulation 3(8) of S.R. 1993 No. 375, regulation 2(17) of S.R. 1996 No. 354 and regulation 2(4) of S.R. 1996 No.432, regulation 36A was substituted by regulation 2 of S.R. 1998 No. 241, regulations 36AA and 36AB were inserted by regulation 2(6) of S.R. 1994 No. 345 and regulation 36AA was amended by regulation 2(18) of S.R. 1996 No. 354 and regulation 2(5) of S.R. 1996 No. 432

(**23**) Paragraph (2A) was inserted by regulation 6(3) of S.R 1989 No. 398 and amended by regulation 3(10) of S.R. 1993 No. 375