Changes to legislation: *The Social Security (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 27 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1989 No. 1342 (N.I. 13)

The Social Security (Northern Ireland) Order 1989 [F1]

F1 functions transf. by SR 1999/481

Introductory

Title, citation and commencement

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1989; and this Order may be cited together with the Social Security (Northern Ireland) Acts 1975 to 1988 as the Social Security (Northern Ireland) Acts 1975 to 1989.

(2) Subject to paragraph (3), this Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(3) The following provisions of this Order shall come into operation on the twenty#first day after the day on which this Order is made—

(a) this Article and Article 2;

(b) Articles 4 to 6, 8, 16 to 22, 29, 30 and 31(3), subject in the case of Article 21 to paragraph (11) of that Article;

(c) Schedule 2;

(d) paragraphs 1, 12 and 13 of Schedule 3 (and Article 23 so far as relating to those paragraphs);

(e) paragraphs 2 to 4, 9 and 14 to 18 of Schedule 6 (and Article 26 so far as relating to those paragraphs);

(f) paragraphs 1 to 7 and 12 of Schedule 7 (and Article 27 so far as relating to those paragraphs);

(g) paragraphs 1, 4 to 6, 8 to 12, 16 and 17 of Schedule 8 (and Article 31 so far as relating to those paragraphs);

(h) the repeals in Schedule 9 to the extent that they are consequential on any provision specified in sub#paragraphs (a) to (g) (and Article 31 so far as relating to those repeals).

Subordinate Legislation Made

P1 Art. 1(2) partly exercised: 25.8.1989 appointed by S.R. 1989/353, **art. 2**;
31.1.1990 by S.R. 1990/35, **art. 2**
16.3.1990 by S.R. 1990/113, **art. 2**
22.6.1994 by S.R. 1994/234, **art. 2**
23.8.2007 by {S.R. 2007/362}, art. 2

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"Commissioner" has the same meaning as it has in the principal Act;

"the Department" means the Department of Health and Social Services;

Definitions rep. by 1992 c.9

"the 1986 Order" means the Social Security (Northern Ireland) Order 1986[F3] ;

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975[F4];

"prescribed" means prescribed by regulations;

"the principal Act" means the Social Security (Northern Ireland) Act 1975[F5];

"regulations" means regulations made by the Department;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) In this Order references to Northern Ireland include references to the territorial waters of the United Kingdom adjacent to Northern Ireland.

F2 1954 c. 33 (NI)
F3 1986 NI 18
F4 1975 NI 15
F5 1975 c. 15

Contributions

Arts.3 — 5 rep. by 1992 c.9

Earnings factors

Paras.(1)#(4) rep. by 1992 c.9

(5) The Earnings Factor Regulations, as in operation for the purpose of determining earnings factors for the tax years beginning with 6th April 1985 and 6th April 1986, shall have effect, and be taken always to have had effect, with the substitution in paragraph 3 of Schedule 1 (which, as amended by regulation 2(3) of the Amending Regulations, provided in certain cases for the aggregation of separate contributions) for the words from "where the values" to "those sums" of the words—

"where, in the case of any two or more separate sums—

(a) the values to be accorded to F (apart from this paragraph) would fall to be ascertained under the same head of paragraph 2(e) above, and

(b) the values to be so accorded to G would fall to be ascertained under the same head of paragraph 2(f) above,

those sums" .

(6) In paragraph (5)—

"the Earnings Factor Regulations" means the Social Security (Earnings Factor) Regulations (Northern Ireland) 1979[F6]; and

"the Amending Regulations" means the Social Security (Earnings Factor) (Amendment) Regulations (Northern Ireland) 1985[F7].

(7) The amendment by paragraph (5) of a provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision, whether in relation to the tax years there mentioned or otherwise.

(8) The Social Security (Earnings Factor) (Amendment) Regulations (Northern Ireland) 1988[F8] shall have effect, and be deemed always to have had effect, as if the amendment made by paragraph (3) had come into operation before the making of those regulations.

F6 SR 1979 No. 193
F7 SR 1985 No. 263
F8 SR 1988 No. 73

Art. 7 rep. by 1992 c.9

Benefits under the principal Act

Benefits for women widowed before 11th April 1988

Para. (1) rep. by 1992 c.9

[F9](2) The Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1987[F10] shall have effect, and be taken always to have had effect, with the addition at the end of regulation 3 (transitional provision for widowed mother's allowance where husband died before 11th April 1988) of the following paragraphs—

"(3) In determining whether a widow—

(a) whose late husband died on or after 7th October 1987 and before 11th April 1988, and

(b) who became entitled to a widow's allowance on his death,

is also entitled, after the cessation of that allowance, to a widowed mother's allowance for any period beginning on or after 11th April 1988, regulation 16(1) of the principal regulations shall apply as if regulation 2(6) above had not been made.

(4) In determining whether a widow—

(a) whose late husband died before 11th April 1988,

(b) who immediately before that date was entitled to a widowed mother's allowance otherwise than by virtue of regulation 16(1) of the principal regulations, and

(c) who would, apart from this paragraph, cease to be entitled to that allowance on or after that date,

is entitled to such an allowance for any period beginning on or after that date, that regulation shall apply as if regulation 2(6) above had not been made." .

(3) The Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1989[F11] shall have effect, and be taken always to have had effect, with the insertion after regulation 3 (which made amendments concerning widowed mother's allowance to regulation 4B of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977[F12] of the following regulation—

"**3A.** The amendment made by regulation 3(a) above shall not have effect in relation to a widow whose late husband died before 11th April 1988.".

(4) In any case where—

(a) a claim for a widow's pension or a widowed mother's allowance is made, or treated as made, before the commencement of this Article, and

(b) the Department has made a payment to or for the claimant on the ground that, if the claim had been received immediately after the commencement of this Article, she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

(5) Where, apart from section 154A of the principal Act (making of claim a condition of entitlement), a widow falling within paragraph (1) would be entitled to a widow's pension for any period beginning on or after 11th April 1988, then, notwithstanding anything in that section, she shall be entitled to that pension for that period if she has made a claim for it before the end of the period of twelve months beginning with the commencement of this Article.

(6) Where a widow's late husband died on or after 7th October 1987 and before 11th April 1988 and, apart from section 154A of the principal Act, she would have become entitled to a widow's allowance on his death, then if either—

(a) she was over the age of 40 but under the age of 55 at the time of his death, or

(b) she would, apart from that section, have been entitled to a widowed mother's allowance on the cessation of her entitlement to the widow's allowance,

she shall, notwithstanding anything in that section, be entitled to the widow's allowance (and, accordingly, in a case falling within sub#paragraph (b), to the widowed mother's allowance) if she has made a claim, or is treated as having made a claim, for it before the end of the period of twelve months beginning with the commencement of this Article.

(7) Where in consequence of any of the amending provisions an adjudicating authority has decided before the commencement of this Article that a widow whose husband died before 11th April 1988 either—

(a) is not entitled to a benefit under section 25 or 26 of the principal Act, or

(b) is entitled to such a benefit at a particular rate,

an adjudication officer may review that decision, notwithstanding anything in**[**F13 section 23 of the Social Security Administration (Northern Ireland) Act 1992**]**.

(8) In any case where—

(a) it is determined on such a review that the widow in question was entitled to a benefit under section 25 or 26 of the principal Act, or was entitled to such a benefit at a higher rate, and

(b) the application for the review was made before the end of the period of twelve months beginning with the commencement of this Article,

the decision on the review may take effect on 11th April 1988 or any later date, notwithstanding any statutory provision restricting the payment of any benefit or increase of benefit to which a person would otherwise be entitled by reason of a review in respect of any period before the review.

(9) **[**F13Section 26 of the Social Security Administration (Northern Ireland) Act 1992 (appeals from reviews)**]** shall apply in relation to a review under this Article as it applies in relation to a review under**[**F13 section 23 of that Act**]**.

(10) In this Article—

"adjudicating authority" means—

(a) an adjudication officer;

(b) a social security appeal tribunal;

(c) a Commissioner; and

"the amending provisions" are—

(a) Article 37(3) of the 1986 Order; and

(b) regulation 2(6) of the Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1987[F14] (deemed entitlement to child allowance for purposes of widowed mother's allowance, etc.).

(11) The amendment by this Article of provisions contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending those provisions.

(12) Nothing in this Article shall be taken to prejudice section 28 or 29 of the Interpretation Act (Northern Ireland) 1954[F15] (effect of repeals, substitutions, etc.).

F9 prosp.rep. by 1990 NI 15
F10 SR 1987 No. 404
F11 SR 1989 No. 103
F12 SR 1977 No. 74
F13 1992 c. 9
F14 SR 1987 No. 404
F15 1954 c. 33 (NI)

Abolition of earnings rule etc.

Paras.(1)#(5) rep. by 1992 c.9

(6) The statutory provisions mentioned in Schedule 1 shall have effect with the amendments there specified.

Art. 10 rep. by 1991 NI 17

Arts. 11#21 rep. by 1992 c.9

Art. 22 rep. by 1993 c.49

Art. 23 rep. by 1992 c.9

Recovery from damages, etc., of sums equivalent to benefit

Recovery of sums equivalent to benefit from compensation payments in respect of accidents, injuries and diseases

Paras.(1)#(6) rep. by 1992 c.9

(7) Schedule 4 shall have effect for the purpose of supplementing the provisions of this Article; and this Article shall have effect subject to the provisions of that Schedule.
Para.(8) rep. by 1992 c.9

Occupational and personal pensions, etc.

Equal treatment for men and women

25. Schedule 5 shall have effect for the purpose of implementing the directive of the Council of the European Communities, dated 24th July 1986, relating to the principle of equal treatment for men and women in occupational social security schemes, and of making additional, supplemental and consequential provision.