Changes to legislation: *The Social Security (Northern Ireland) Order 1986 is up to date with all changes known to be in force on or before 12 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

1986 No. 1888 (N.I.18)

The Social Security (Northern Ireland) Order 1986 [F1]

[F2]

\- - - - - - *5th November 1986*

F1 functions transf. by SR 1999/481
F2 mod. by SR 1989/427

PART I

INTRODUCTORY

Title, citation and commencement

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1986.

(2) This Order may be cited together with the Social Security (Northern Ireland) Acts 1975 to 1985 as the Social Security (Northern Ireland) Acts 1975 to 1986.

(3) Subject to the following provisions of this Article, this Order shall come into operation on such day or days as the Head of the Department may by order appoint[F3].

(4) Article 53 (adjudication) (including Schedule 5) shall come into operation on such day or days as the Head of the Department with the consent of the Lord Chancellor may by order appoint[F3].

(5) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, if different days are appointed under paragraph (3) for the purposes of Part IV in relation to different descriptions of persons, those descriptions of persons may be determined by any criteria that appear to the Head of the Department to be appropriate.

(6) If an order under paragraph (3) brings paragraph 8 of Schedule 3 into operation on the same day as Article 37, the former shall be deemed to have come into operation immediately before the latter.

(7) The following provisions of this Order shall come into operation on the fourteenth day after the day on which this Order is made—

this Article and Article 2;

Article 31(3) and (4) (housing benefit finance);

Article 38 (invalid care allowance for women);

Article 39(4) (abolition of maternity grant);

Article 46 (guardian's allowance—adoption);

Article 62 (consultations on subordinate legislation);

Article 64 (annual up-rating of benefits);

Article 65 (effect of alteration of rates of benefit);

Article 71 (child benefit in respect of children education otherwise than at educational establishments);

Article 72(4) and (5) (entitlement to mobility allowance—general);

Article 73 (entitlement of certain women to mobility allowance);

Article 75 (National Insurance contributions);

Article 77 (amendments relating to forfeiture of benefits);

Article 81 (orders and regulations (general provisions));

Article 82 (financial provision);

Article 83(1) (minor and consequential amendments) so far as it relates to paragraphs 13, 14(3), 17(1) and (2), 18, 24(b), (c) and (d)(ii) 64, 73 and 74 of Schedule 9;

Article 83(2) (repeals) so far as it relates to—

(a) section 37(3) of the principal Act and the reference to paragraph (b) of that subsection in Article 18(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977;

(b) Article 53D(2) and (3) of, and paragraph 12 of Schedule 1A to, the Pensions Order;

(c) section 10 of the Social Security Act 1980; and

(d) Article 4 of the Housing Benefits (Northern Ireland) Order 1983; and

Article 84 (transitional).

F3 partly exercised by SR 1986/339, 1987/20,21,121,161,184,299,449, 1988/116

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 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—

Definition rep. by 1992 c.9

Definition rep. by 1993 c.49

"the benefit Acts" means—

(a) the Social Security Act 1973;

(b) **[**[F4]the Social Security (Northern Ireland) Acts 1975 to 1991**]**;

Sub.#paras. (c),(d) rep. by 1992 c. 9

Definition rep. by 1993 c.49

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

Definition rep. by 1992 c.9

Definitions rep. by 1993 c.49

Definitions rep. by 1992 c.9

Definition rep. by 1993 c.49

Definition rep. by 1992 c.9

Definition rep. by 1993 c.49

"modifications" includes additions, omissions and amendments, and related expressions shall be construed accordingly;

Definitions rep. by 1993 c.49

"prescribed" means specified in or determined in accordance with regulations;

Definition rep. by 1992 c.9

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

Definition rep. by 1993 c.49

Definition rep. by 1992 c.9

"rate rebate", "rent rebate" and "rent allowance" shall be construed in accordance with Article 29;

"rates" has the same meaning as in the Rates (Northern Ireland) Order 1977;

"regulations" means regulations made by the Department under this Order;

Definition rep. by 1988 NI 2

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

Definitions rep. by 1993 c.49

Definition rep. by 1992 c.9

Paras. (3),(4)—rep. by 1993 c.49

F4 1991 NI 9

PART II

PENSIONS

Personal pension schemes

Arts. 3#10 rep. by 1993 c.49

Guaranteed minimum pensions

Sub.#paras. (1)#(7) rep. by 1993 c.49

(8) In Article 69 of the Pensions Order (increase of offical pensions) the following paragraph shall be inserted after paragraph (5)—

"(5A) Nothing in Article 39A(8), (9) or (10) authorises any deduction from an increase in the rate of an offical pension under this Article."

(9) In Article 69A of the Pensions Order (modification of effect of Article 69(5)) the following paragraph shall be inserted after paragraph (2)—

"(2A) Where in any tax year—

(a) an increase is calculated in accordance with a direction under this Article; and

(b) the amount by reference to which the increase is calculated, or any part of it, is increased in that tax year under Article 39A.

the increase calculated in accordance with the direction shall be reduced by the amount of the increase under Article 39A."

Arts. 12#18A rep. by 1993 c.49

Arts. 19#25B— rep. (with saving for Art. 19(1)) by 1992 c.9

Art. 26 rep. by 1995 NI 2

Arts. 27#36 rep. by 1992 c.9

PART V

BENEFITS UNDER THE PRINCIPAL ACT

Art. 37 rep. by 1992 c.9

Invalid care allowance for women

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

(2) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 shall have effect, and shall be treated as having had effect from 22nd December 1984, as if the following sub-paragraphs were substituted for sub-paragraphs (a) and (b) of paragraph 7 of Schedule 2 (increases of invalid care allowance)—

"(a) a spouse who is not engaged in any one or more employments from which the spouse's weekly earnings exceed that amount; or

(b) some person (not being a child) who—

(i) has the care of a child or children in respect of whom the beneficiary is entitled to child benefit, being a child or children in respect of whom the beneficiary is entitled to an increase of an invalid care allowance or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits;

(ii) is not undergoing imprisonment or detention in legal custody;

(iii) is not engaged in any one or more employments (other than employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) from which the person's weekly earnings exceed that amount;

(iv) is not absent from Northern Ireland, except for any period during which the person is residing with the beneficiary outside Northern Ireland and for which the beneficiary is entitled to an invalid care allowance." .

Art. 39 rep. by 1992 c.9

Industrial injuries and diseases

40. Schedule 3 shall have effect in relation to Chapters IV and V of Part II of the principal Act and associated enactments.

Arts. 41#51 rep. by 1992 c.9

PART VII

COMMON PROVISIONS

Administration

Art. 52 rep. by 1992 c.9

[F5Payment out of benefit of sums in respect of mortgage interest, etc.

52A.—(1) This Article applies in relation to cases where—

(a) mortgage interest is payable to a qualifying lender by a person ("the borrower") who is entitled, or whose partner, former partner or qualifying associate is entitled, to income support; and

(b) a sum in respect of that mortgage interest is or was brought into account in determining the applicable amount for the purposes of income support in the case of the borrower or the partner, former partner or qualifying associate;

and any reference in this Article to "the relevant beneficiary" is a reference to the person whose applicable amount for the purposes of income support is or was determined as mentioned in sub-paragraph (b).

(2) Without prejudice to sub-paragraphs (j) and (q) of Article 52(1), regulations may, in relation to cases where this Article applies, make provision—

(a) requiring that, in prescribed circumstances, a prescribed part of any relevant benefits to which the relevant beneficiary is entitled shall be paid by the Department directly to the qualifying lender and applied by that lender towards the discharge of the liability in respect of the mortgage interest;

(b) for the expenses of the Department in administering the making of payments under the regulations to be defrayed, in whole or in part, at the expense of qualifying lenders, whether by requiring them to pay prescribed fees or by deducting and retaining a prescribed part of the payments that would otherwise be made to them under the regulations or by such other method as may be prescribed;

(c) for requiring a qualifying lender, in a case where by virtue of sub-paragraph (b) the amount of the payment made to him under the regulations is less than it would otherwise have been, to credit against the liability in respect of the mortgage interest (in addition to the payment actually made) an amount equal to the difference between—

(i) the payment that would have been so made, apart from sub-paragraph (b); and

(ii) the payment actually made;

and, in any such case, for treating the amount so credited as properly paid on account of benefit due to the relevant beneficiary;

(d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as such for the purposes of this Article, other than this sub-paragraph;

(e) for the recovery from any body or person—

(i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid; or

(ii) of any fees or other sums due from that body or person by virtue of sub-paragraph (b);

(f) for cases where the same person is the borrower in relation to mortgage interest payable in respect of two or more different loans; and