



2008 CHAPTER 13

PART 6

GENERAL

Orders and regulations

112.—(1) Subject to the following provisions of this section, any orders or regulations made by the Department under this Act are subject to negative resolution.

(2) Subsection (1) does not apply to an order under section 118.

(3) Orders or regulations to which this subsection applies—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to the making of a new order or regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(4) Subsection (3) applies to—

- (a) regulations under section 16(3)(c), 17(1)(c), 28, 77 or 111;
- (b) the first regulations under section 3(2) or (6), 5(2) or (7), 7(4)(b) or (6) or 9(3)(b);
- (c) an order under section 28(9);
- (d) an order under section 114 amending or repealing any relevant statutory provision;
- (e) an order under paragraph 9(7) of Schedule 4.

Changes to legislation: Pensions (No. 2) Act (Northern Ireland) 2008, PART 6 is up to date with all changes known to be in force on or before 13 April 2024. 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

(5) This subsection applies to any regulations or orders made by the Department under this Act which—

- (a) but for subsection (6), would be subject to negative resolution, and
- (b) are contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.

(6) Any regulations or orders to which subsection (5) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.

(7) In this section—

“the confirmatory procedure” means the procedure described in subsection (3);

“relevant statutory provision” means a statutory provision contained in—

- (a) an Act of the Parliament of Northern Ireland;
- (b) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 (c. 28) or the Schedule to the Northern Ireland Act 2000 (c. 1);
- (c) an Act of the Assembly; or
- (d) an Act of the Parliament of the United Kingdom.

Orders and regulations: supplementary

113.—(1) This section applies to an order or regulations made by the Department under this Act.

(2) An order or regulations may include—

- (a) such incidental, supplemental, consequential or transitional provision as appears to the Department to be expedient;
- (b) provision conferring a discretion on any person.

[^{F1}Service of documents and electronic working

113A In Articles 2(7)(a), 277 and 278 of the 2005 Order (service of documents and electronic working) references to that Order are to be treated as including references to the following provisions of this Act—

Chapters 2 and 3 of Part 1;

section 59(1)(c);

Chapter 1 of Part 3.]

Textual Amendments

- F1** S. 113A inserted (30.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), ss. **33(1)**, 34(3); S.R. 2012/265, art. 2(1)(f)

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Further provision etc.

114.—(1) The Department may by order make—

- (a) such supplemental, incidental or consequential provision, or
- (b) such transitory, transitional or saving provision,

as the Department thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.

(2) An order under this section may, for purposes of or in consequence of or for giving full effect to any provision of or made under section 85, make provision for applying (with or without modifications) or amending, repealing or revoking any statutory provision.

(3) Amendments made under this section are in addition, and without prejudice, to those made by or under any other provision of this Act.

(4) No other provision of this Act restricts the powers conferred by this section.

(5) In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) (social security: amendments following certain orders), at the end of paragraph (2) add “ the Pensions Act 2008 ”.

Pre-consolidation amendments

115.—(1) The Department may by order make such modification of statutory provisions within subsection (2) as in the Department's opinion facilitate, or are otherwise desirable in connection with, the consolidation of any of those statutory provisions.

(2) The statutory provisions are—

- (a) the Pension Schemes Act;
- (b) the 1995 Order;
- (c) Parts 2 to 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11);
- (d) Chapter 2 of Part 2 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4);
- (e) the 2005 Order;
- (f) the Pensions Act (Northern Ireland) 2008 (c. 1);
- (g) this Act;
- (h) statutory provisions referring to any provision within paragraphs (a) to (g).

Repeals

116 Schedule 10 (repeals) has effect.

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Commencement Information

- I1** S. 116 partly in operation; s. 116 in operation for certain purposes at Royal Assent, see s. 118(2)(3); s. 116 in operation for certain purposes at 6.4.2009 by [S.R. 2009/22, art. 2\(2\)\(d\)](#); s. 116 in operation for certain purposes at 6.4.2011 by [S.R. 2011/108, art. 2\(2\), Sch.](#)
- I2** S. 116 in operation at 6.4.2012 for specified purposes by [S.R. 2012/119, art. 2\(b\)](#)
- I3** [S. 116](#) in operation at 1.10.2012 for specified purposes by [S.R. 2012/372, art. 2\(b\)](#)

Interpretation

117.—(1) In this Act—

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995 (NI 22);

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005 (NI 1);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“the Department” means the Department for Social Development;

“the Employment Rights Order” means the Employment Rights (Northern Ireland) Order 1996 (NI 16);

[^{F2}“First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007;]

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

“the Regulator” means the Pensions Regulator;

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

[^{F3}“Tribunal Procedure Rules” has the same meaning as in the Tribunals, Courts and Enforcement Act 2007.]

(2) In the application, for the purposes of this Act, of section 39(2) of the Interpretation Act (Northern Ireland) 1954 (time beginning on a particular day), omit the word “not”.

Textual Amendments

- F2** S. 117(1): definition of "First-tier Tribunal" and "Upper Tribunal" inserted (6.4.2010) by [Pensions Regulator Tribunal \(Transfer of Functions\) Act \(Northern Ireland\) 2010 \(c. 4\), ss. 3\(1\), 5\(2\), Sch. 1 para. 33\(a\)](#) (with Sch. 2); [S.R. 2010/101, art. 2](#)

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F3 S. 117(1): definition of "Tribunal Procedure Rules" added (6.4.2010) by [Pensions Regulator Tribunal \(Transfer of Functions\) Act \(Northern Ireland\) 2010 \(c. 4\), ss. 3\(1\), 5\(2\), Sch. 1 para. 33\(b\)](#) (with Sch. 2); S.R. 2010/101, [art. 2](#)

Commencement

118.—(1) Subject to the following provisions, this Act comes into operation in accordance with provision made by order by the Department.

(2) Subsection (1) does not apply to—

- (a) sections 65 to 68;
- (b) section 84;
- (c) section 102 (and Schedule 7 and Part 6 of Schedule 10 and section 116 so far as relating thereto);
- (d) section 108;
- (e) section 109;
- (f) section 111;
- (g) this Part, except Parts 1 to 5 of Schedule 10 and section 116 so far as relating thereto;
- (h) the provisions mentioned in subsection (3);
- (i) the provisions mentioned in subsection (5);
- (j) any other provision of this Act so far as it confers any power to make regulations, rules or an order under this Act.

(3) The provisions mentioned in this subsection are—

- (a) in Schedule 8—
 - (i) paragraph 1 so far as relating to any of the following paragraphs;
 - (ii) paragraph 3 (and paragraph 2 so far as necessary for the purposes of that paragraph);
 - (iii) paragraphs 5 to 7;
 - (iv) paragraph 8 for purposes other than those of the material detriment test;
 - (v) paragraphs 9 to 14;
 - (vi) in paragraph 15, sub-paragraph (1) so far as relating to paragraphs 6 and 7, sub-paragraph (2) for purposes other than those of the material detriment test, and sub-paragraphs (3) and (4);
 - (vii) paragraph 16;
- (b) section 103 so far as relating to any of the paragraphs of that Schedule mentioned in paragraph (a) of this subsection;

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(c) the repeal in Schedule 10 relating to Article 34(5)(a)(ii) of the 2005 Order, the note in that Schedule relating to that repeal and section 116 so far as relating to that repeal and that note.

(4) Section 84 comes into operation on 6th April 2009.

(5) Sub-paragraph (3) of paragraph 6 of Schedule 7, and Part 6 of Schedule 10 so far as relating to the repeals mentioned in that sub-paragraph, come into operation on the day appointed by an order under section 21(1) of the Pensions Act (Northern Ireland) 2008 (c. 1) for the coming into operation of paragraph 44(2) of Schedule 4 to that Act.

Subordinate Legislation Made

- P1** S. 118(1) power partly exercised: 26.1.2009 and 6.4.2009 appointed for specified provisions by [S.R. 2009/22](#), [art. 2](#)
- S. 118(1) power partly exercised: 1.4.2009 and 6.4.2009 appointed for specified provisions by [S.R. 2009/147](#), [arts. 2, 3](#)
- S. 118(1) power partly exercised: 29.6.2009 appointed for specified provisions by [S.R. 2009/249](#), [art. 2](#)
- S. 118(1) power partly exercised: 26.2.2010 and 5.7.2010 appointed for specified provisions by [S.R. 2010/50](#), [art. 2](#)
- S. 118(1) power partly exercised: 16.3.2011 and 6.4.2011 appointed for specified provisions by [S.R. 2011/108](#), [art. 2](#), [Sch.](#)
- S. 118(1) power partly exercised: 3.1.2012 appointed for specified provisions by [S.R. 2011/441](#), [art. 2](#)

Short title

119 This Act may be cited as the Pensions (No. 2) Act (Northern Ireland) 2008.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 24\(1\)\(c\) inserted by 2016 c. 1 \(N.I.\) Sch. 2 para. 39\(2\)\(d\)](#)