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STATUTORY INSTRUMENTS

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**1980 No. 1087 (N.I. 13)**

**NORTHERN IRELAND**

**The Social Security (No. 2) (Northern Ireland) Order 1980**

*Made*

*28th July 1980*

*Coming into operation in accordance with Article 1*

*Laid before Parliament*

*15th August 1980*

**ARRANGEMENT OF ORDER**

**Article**

1. Title, citation and commencement.
2. Interpretation.
3. Alteration of period of interruption of employment and of periods relating to invalidity allowance and unemployability supplement.
4. Reduction and abolition of earnings-related supplement and addition.
5. Abatement of unemployment benefit on account of payments of occupational pension.
6. Supplementary benefit in cases affected by trade disputes.
7. Supplementary provisions.

**Schedule—Repeals**

At the Court at Buckingham Palace, the 28th day of July 1980

Present,

The Queen's Most Excellent Majesty in Council

Whereas the effect of this Order is confined to making for Northern Ireland provision corresponding to provisions of the Social Security (No. 2) Act 1980(a):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (b) (as modified by section 7 (5) of the said Act of 1980) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Title, citation and commencement*

1.—(1) This Order may be cited as the Social Security (No. 2) (Northern Ireland) Order 1980 and shall be included among the enactments which may be cited together as the Social Security (Northern Ireland) Acts 1975 to 1980.

(2) Subject to paragraph (3), this Order shall come into operation forthwith.

(3) Articles 3 to 6 and 7 (4), (6) and (7) and the Schedule shall come into operation on such day or days as the Head of the Department may by order appoint.

#### *Interpretation*

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

“the Department” means the Department of Health and Social Services;

“National Insurance Fund” means the Northern Ireland National Insurance Fund;

“the 1977 Order” means the Supplementary Benefits (Northern Ireland) Order 1977 (b);

“prescribed” means prescribed by regulations;

“the principal Act” means the Social Security (Northern Ireland) Act 1975 (c);

“regulations” means regulations made by the Department.

#### *Alteration of period of interruption of employment and of periods relating to invalidity allowance and unemployability supplement*

3.—(1) For paragraph (d) of subsection (1) of section 17 of the principal Act (which provides that for the purposes mentioned in that subsection any two days of interruption of employment within a period of 6 consecutive days shall be treated as a period of interruption of employment and any two such periods not separated by 13 weeks shall be treated as one period of interruption of employment) there shall be substituted the following paragraph—

“(d) the following periods, namely—

(i) any two days of unemployment, whether consecutive or not, within a period of 6 consecutive days,

(ii) any four or more consecutive days of incapacity for work,

shall be treated as a period of interruption of employment, and any two such periods not separated by a period of more than 8 weeks (‘week’ for this purpose meaning any period of 7 days) shall be treated as one period of interruption of employment;”.

(2) Accordingly in section 56 (6) of the principal Act (which among other things provides for section 17 (1) of that Act to have effect for the purposes of injury benefit as it has effect for the purposes of unemployment benefit or sickness benefit) the words “unemployment benefit or” shall be omitted.

(3) In section 28 (7) of the principal Act (under which a Category A retirement pension is to be increased if among other things the pensioner was entitled to invalidity allowance in respect of any day in the 13 weeks preceding the day on which he attains pensionable age) and in subsection (4) of section 59 of that Act (which among other things provides that for the purposes of that subsection a break of more than 13 weeks in entitlement to unemployability

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(a) 1954 c. 33 (N.I.).

(b) S.I. 1977/2156 (N.I. 27).

(c) 1975 c. 15.

supplement means that the periods before and after the break are different periods, and a break of 13 weeks or less is to be disregarded), for the words "13 weeks" wherever they occur there shall be substituted the words "8 weeks".

(4) Regulations may provide for any provision amended by paragraph (1) or (3) to have effect as if for the reference to 8 weeks there were substituted a reference to a larger number of weeks specified in the regulations.

*Reduction and abolition of earnings-related supplement and addition*

4.—(1) In Schedule 6 to the principal Act, in paragraph 3 (1) (a) (ii) (under which the weekly rate of earnings-related supplement of unemployment benefit, sickness benefit and a maternity allowance and the earnings-related addition to a widow's allowance are calculated by reference to 15 per cent. of the earnings there mentioned) for the words "15 per cent." there shall be substituted the words "10 per cent."

(2) Except as provided in pursuance of Article 7 (2), no earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance and no earnings-related addition to a widow's allowance shall be payable under the principal Act in respect of any period which is after the coming into operation of this paragraph.

*Abatement of unemployment benefit on account of payments of occupational pension*

5.—(1) If payments by way of occupational pension which in the aggregate exceed the maximum sum are made for any week to a person who has attained the age of 60, the rate of any unemployment benefit under the principal Act to which apart from this Article he is entitled for that week shall be reduced by 10 pence for each 10 pence of the excess; and in this paragraph "the maximum sum" means such sum not less than £35 as is prescribed.

(2) Regulations may provide—

(a) for such sums as are specified in or determined under the regulations to be disregarded for the purposes of this Article;

(b) for securing that no reduction in pursuance of paragraph (1) is made in the unemployment benefit for any day before the day which in pursuance of the regulations is treated as that on which relevant payments by way of occupational pension begin;

(c) for this Article to apply, in cases where—

(i) a lump sum is paid to a person in connection with a former employment of his or arrangements are made for a lump sum to be so paid; or

(ii) benefits of any description are made available to a person in connection with a former employment of his or arrangements are made for them to be made so available; or

(iii) payments by way of occupational pension to a person are assigned, reduced or postponed or are made otherwise than weekly,

as if there were made to the person such weekly payments by way of occupational pension as are specified in or determined under the regulations;

(d) for the method of determining whether payments by way of occupational pension are made to a person for any week and the amount of any such payments which are so made;

(c) for sections 14 (7), 17 (1) and 18 (1) of the principal Act (which relate respectively to earnings-related supplement of unemployment benefit, the days for which unemployment benefit is payable and the duration of unemployment benefit) to have effect, in relation to a person whose rate of unemployment benefit is reduced by virtue of this Article, with such modifications as are prescribed.

(3) In this Article—

“employer” means—

(a) in relation to an employment under a contract of service, the employer under the contract;

(b) in relation to an employment in an office with emoluments, the person responsible for paying the emoluments;

“employment” means an employment under a contract of service or in an office with emoluments;

“modifications” includes additions, omissions and amendments;

“payments by way of occupational pension” means, in relation to a person, periodical payments which, in connection with the coming to an end of an employment of his, fall to be made to him and to be so made out of money provided wholly or partly by the employer or under arrangements made by the employer or out of money provided under an enactment or instrument having the force of law in any part of the United Kingdom or elsewhere and such other payments as are prescribed;

and the reference in paragraph (1) to unemployment benefit includes any earnings-related supplement of the benefit and any increase of the benefit on account of dependants.

(4) Section 10 of the Social Security Act 1980 (a) (which among other things requires the Department to refer to the Social Security Advisory Committee certain proposals to make regulations) shall apply to proposals to make regulations in pursuance of paragraph (2) and regulations prescribing payments for the purposes of the definition of “payments by way of occupational pension” in paragraph (3), other than regulations which are made during the period of 6 months beginning with the date of the making of this Order, as it applies to such proposals of the Department as are mentioned in subsection (1) of that section.

*Supplementary benefit in cases affected by trade disputes*

6.—(1) Where in consequence of a stoppage of work which is due to a trade dispute the requirements of a person for any period are, by virtue of Article 12 of the 1977 Order (which relates to cases affected by trade disputes), to be disregarded to any extent for the purposes of supplementary benefit, then, except so far as regulations provide otherwise—

(a) there shall not be disregarded for the purposes of that Order—

(i) any relevant payments of his for that period or any part of it, and

(ii) without prejudice to the generality of head (i), any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his emoluments in pursuance of section 204 of the Income and Corporation Taxes Act 1970 (b) (pay as you earn);

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(a) 1980 c. 30.

(b) 1970 c. 10.

- (b) any payment by way of a supplementary pension or allowance for that period or any part of it which apart from this sub-paragraph would be made to him, or to any other person whose resources are to be aggregated with his in pursuance of the 1977 Order, shall not be made if the weekly rate of the payment is £12 or less and, if it is more than £12, shall be at a weekly rate equal to the difference; and
- (c) no payments in pursuance of Article 6 of the 1977 Order (which relates to urgent cases) shall be made, in respect of requirements relating to that period, to him or to any other person whose resources are to be aggregated with his in pursuance of that Order.

(2) If the Department makes an order under section 120 of the principal Act which corresponds to an order under section 124 of the Social Security Act 1975 (a) specifying in pursuance of section 23 (2) of the Social Security Pensions Act 1975 (b) a percentage by which certain sums are to be increased, then, subject to paragraph (3) and to the operation of this paragraph by reference to any later such order under the said section 120,—

(a) paragraph (1) (b) shall have effect, from the time when the first-mentioned order comes into operation, with the substitution for the references to the specified sum of references to a sum arrived at by—

- (i) increasing the specified sum by that percentage of it, and
- (ii) if that sum as so increased is not a multiple of 50p, disregarding the remainder if it is 25p and, if it is not, rounding it up or down to the nearest 50p; and

(b) the Department shall make an order stating the sum which by reference to the first-mentioned order is arrived at in pursuance of sub-paragraph (a).

(3) Regulations may provide—

- (a) that paragraph (2) shall not apply in relation to a particular order under the said section 120 corresponding as aforesaid; and
- (b) that paragraph (1) (b) shall have effect with the substitution for the references to the specified sum of references to a sum prescribed by the regulations;

and paragraph (2) shall not apply in relation to a percentage if that percentage of the specified sum is 25p or less.

(4) In this Article—

“relevant payments” means, in relation to a person and a period, payments which the person receives or is entitled to obtain by reason of his being without employment for that period;

“the specified sum” means £12 or, if by virtue of paragraph (2) or (3) another sum is for the time being mentioned in the places in paragraph (1) (b) as originally enacted where £12 was mentioned, that other sum; and

“trade dispute” has the same meaning as in the principal Act;

and for the purposes of paragraph (1) any modification of Article 12 of the 1977 Order which has effect by virtue of any other provision of that Order shall be disregarded.

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(a) 1975 c. 14.

(b) 1975 c. 60.

(5) Article 4 of the 1977 Order (which among other things relates to the determination of any question as to entitlement to and the amount of supplementary benefit and any other question relating to supplementary benefit which arises under that Order) shall have effect, after the preceding provisions of this Article and Article 7 (1) of the Social Security (Northern Ireland) Order 1980 (a) (which amends the said Article 4) have come into operation, with the addition after the words "under this Order" in paragraph (1) of the said Article 4 of the words "or Article 6 of the Social Security (No. 2) (Northern Ireland) Order 1980".

(6) If provisions of this Article come into operation before the date when the said Article 7 (1) comes into operation, regulations may provide for the 1977 Order to have effect until that date with such modifications, if any, as the Department considers appropriate in consequence of the coming into operation of those provisions; and in this paragraph "modifications" includes additions, omissions and amendments.

#### *Supplementary provisions*

7.—(1) Article 14 of the Social Security (Northern Ireland) Order 1980 (which provides for sums in respect of expenses under that Order which are connected with benefits payable out of the National Insurance Fund to be paid from that Fund into the Consolidated Fund) shall have effect as if the references to expenses incurred by virtue of that Order included administrative expenses of the Department which are attributable to this Order.

(2) Regulations may make such provision as the Department considers appropriate for dealing with transitional matters connected with or arising out of the coming into operation of any provision of this Order including in particular, but without prejudice to the generality of the preceding provisions of this paragraph—

- (a) provision for disregarding the effect of paragraph (1) or (3) of Article 3 in relation to periods which include the day on which that paragraph comes into operation;
- (b) provision for disregarding the effect of paragraph (1) of Article 4 of this Order in relation to any period after that paragraph comes into operation;
- (c) provision for the payment in respect of any period after paragraph (2) of Article 4 of this Order comes into operation of such a supplement or addition as is mentioned in that paragraph.

(3) Subsections (2) and (3) of section 155 of the principal Act (which among other things make provision about the extent of powers to make orders and regulations) shall apply to any power to make an order or regulations conferred by the provisions of this Order except Article 1 (3) as they apply to any power to make an order or regulations conferred by that Act but as if for references to that Act there were substituted references to those provisions.

(4) Regulations prescribing payments for the purposes of the definition of "payments by way of occupational pension" in Article 5 (3) and regulations made by virtue of Article 6 (3) shall take effect on such date as may be specified in the regulations, but shall cease to have effect upon the expiration of a period of 6

months from the said date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(5) Other regulations made by virtue of this Order shall be subject to negative resolution.

(6) The principal Act is hereby repealed to the extent specified in the third column of the Schedule.

(7) In Article 18 (6) (a) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (a) (which refers to certain payments which are analogous to the earnings-related supplement mentioned in section 14 (7) of the principal Act) after the words "principal Act" there shall be inserted the words "when it was in force".

*N. E. Leigh,*  
Clerk of the Privy Council.

## SCHEDULE

## REPEALS

Chapter	Short title	Extent of repeal
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	<p>In section 12 (1) the words "earnings-related supplement, and" wherever they occur and the words "earnings-related addition, and".</p> <p>In section 13, subsection (2) (b), in subsection (3) the words from "and for" onwards and in subsection (4) the words from "but not" onwards.</p> <p>Section 14 (7).</p> <p>In section 17 (3) the words from "for the purposes" to "Act and," and the words "for all other purposes of this Part of this Act,".</p> <p>Sections 22 (4) and 24 (3).</p> <p>In section 56 (6) the words "unemployment benefit or".</p> <p>In section 79 (4), paragraphs (a) and (c) and the words from "to cause" to "supplement, or".</p> <p>In section 92 (2) the words "earnings-related supplement under section 14 (7) or 22 (4)".</p> <p>Schedule 6.</p>



## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

The effect of this Order is confined to making for Northern Ireland provision corresponding to certain provisions contained in the Social Security (No. 2) Act 1980.

Article 3 amends the provision which provides for the calculation of periods of interruption of employment and certain related provisions. Article 4 (1) provides for the reduction and Article 4 (2) for the abolition of earnings-related supplement and addition to short-term benefits. Article 5 provides for the abatement of unemployment benefit on account of payments of occupational pension. Article 6 restricts the amount of supplementary benefit payable under the Supplementary Benefits (Northern Ireland) Order 1977 to a person to whom Article 12 of that Order applies (persons affected by trade disputes) and to other persons whose resources fall to be aggregated with those of such a person.