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STATUTORY INSTRUMENTS

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**1982 No. 1082**

**The Forfeiture (Northern Ireland) Order 1982**

***Social Security Commissioner to decide whether rule applies to social security benefits***

**6**<sup>F1</sup>.—(1) Where a question arises as to whether, if a person were otherwise entitled to or eligible for any benefit or advantage under a relevant enactment, he would be precluded by virtue of the forfeiture rule from receiving the whole or part of the benefit or advantage, that question shall (notwithstanding anything in any relevant enactment) be determined by a Commissioner.

[<sup>F2</sup>(1A) Where a Commissioner determines that the forfeiture rule has precluded a person (in this Article referred to as “the offender”) who has unlawfully killed another from receiving the whole or part of any such benefit or advantage, the Commissioner may make a decision under this paragraph modifying the effect of that rule and may do so whether the unlawful killing occurred before or after the coming into operation of this paragraph.

(1B) The Commissioner shall not make a decision under paragraph (1A) modifying the effect of the forfeiture rule in any case unless he is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the Commissioner to be material, the justice of the case requires the effect of the rule to be so modified in that case.

(1C) Subject to paragraph (1D), a decision under paragraph (1A) may modify the effect of the forfeiture rule in either or both of the following ways—

- (a) so that it applies only in respect of a specified proportion of the benefit or advantage;
- (b) so that it applies in respect of the benefit or advantage only for specified period of time.

(1D) Such a decision may not modify the effect of the forfeiture rule so as to allow any person to receive the whole or any part of a benefit or advantage in respect of any period before the commencement of this paragraph.

(1E) If the Commissioner thinks it expedient to do so, he may direct that his decision shall apply to any future claim for a benefit or advantage under a relevant enactment, on which a question such as is mentioned in paragraph (1) arises by reason of the same unlawful killing.

(1F) It is immaterial for the purposes of paragraph (1E) whether the claim is in respect of the same or a different benefit or advantage.

(1G) For the purpose of obtaining a decision whether the forfeiture rule should be modified the Department of Health and Social Services may refer to a Commissioner for review any determination of a question such as is mentioned in paragraph (1) that was made before the commencement of paragraphs (1A) to (1F) (whether by a Commissioner or not) and shall do so if the offender requests that Department to refer such a determination.

(1H) Paragraphs (1A) to (1F) shall have effect on a reference under paragraph (1G) as if in paragraph (1A) the words “it has been determined” were substituted for the words “a Commissioner determines”.]

(2) Regulations under this Article may make such provision as appears to the [<sup>F3</sup> Lord Chancellor] to be necessary or expedient for carrying this Article into effect; and (without prejudice to the generality of that) the regulations may, in relation to the question mentioned in paragraph (1) or any determination under that paragraph [<sup>F2</sup> or any decision under paragraph (1A)]

- (a) apply any provision of any relevant enactment, with or without modifications, or exclude or contain provision corresponding to any such provision; and
- (b) make provision for purposes corresponding to those for which provision may be made by regulations under<sup>F4</sup> Article 16 of the Social Security (Northern Ireland) Order 1998] (matters relating to adjudication).
- (3) Regulations under this Article shall be subject to negative resolution.
- (4) [<sup>F5</sup>Section 171(3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992] (provision about extent of power to make regulations) shall apply to the power to make regulations conferred by this Article as it applies to the power to make regulations conferred by that Act, but as if for references to that Act there were substituted references to this Article.
- (5) <sup>F6</sup> In this Article—
- “Commissioner” has the same meaning as in the Social Security<sup>F5</sup> Administration (Northern Ireland) Act 1991]; and
- “relevant enactment” means any provision of the following and any instrument made by virtue of such a provision:
- the Personal Injuries (Emergency Provisions) Act 1939<sup>F7</sup>,
  - [<sup>F8</sup>the Pension Schemes (Northern Ireland) Act 1993,]
  - [<sup>F9</sup>Part 1 of the Pensions Act (Northern Ireland) 2015,]
  - [<sup>F10</sup>section 29 of that Act,]
  - the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939<sup>F11</sup>,
  - the Polish Resettlement Act 1947<sup>F12</sup>,
  - <sup>F5</sup>[<sup>F2</sup> . . .
  - [<sup>F13</sup>the Social Security (Northern Ireland) Acts 1975 to 1991],]
  - [<sup>F5</sup>The Social Security Contributions and Benefits (Northern Ireland Act) 1992,]
- and any other statutory provision relating to pensions or social security prescribed by regulations under this Article.

<b>F1</b>	functions transf. by 1986 c. 50
<b>F2</b>	1986 NI 18
<b>F3</b>	1986 c. 50
<b>F4</b>	1998 NI 10
<b>F5</b>	1992 c. 9
<b>F6</b>	mod. by SR 1999/225
<b>F7</b>	1939 c. 82
<b>F8</b>	1993 c. 49
<b>F9</b>	Words in art. 6(5) inserted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by <a href="#">Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3)</a> , <b>Sch. 12 para. 1</b>
<b>F10</b>	Words in art. 6(5) inserted (6.4.2017) by <a href="#">Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1)</a> , <b>Sch. 16 para. 1</b> ; S.R. 2017/44, art. 2(2) (with arts. 34)
<b>F11</b>	1939 c. 83
<b>F12</b>	1947 c. 19
<b>F13</b>	1991 NI 9

**Changes to legislation:**

There are currently no known outstanding effects for the The Forfeiture (Northern Ireland) Order 1982, Section 6 .