
STATUTORY INSTRUMENTS

1988 No. 594 (N.I. 2)

NORTHERN IRELAND

The Social Security (Northern Ireland) Order 1988

Made - - - - 23rd March 1988

Laid before Parliament 31st March 1988

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the 23rd day of March 1988

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Social Security Act 1988⁽¹⁾:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽²⁾ (as modified by section 17 of the said Act of 1988) 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:—

Introductory

Title, citation and commencement

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1988.

(2) Articles 3 to 12 (including Schedules 1 to 3), and this Article, Article 2 and Articles 15 to 17 (including Schedules 4 and 5) so far as they have effect for the purposes of Articles 3 to 12, may be cited together with the Social Security (Northern Ireland) Acts 1975 to 1986 and the Social Fund (Maternity and Funeral Expenses) (Northern Ireland) Order 1987⁽³⁾ as the Social Security (Northern Ireland) Acts 1975 to 1988.

(3) Subject to paragraph (4), this Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(4) The following provisions of this Order shall come into operation on 1st April 1988—

(1) 1988 c. 7
(2) 1974 c. 28
(3) 1987 NI 8

this Article and Article 2;

Article 3;

Article 4(2);

Article 9;

Article 11;

Article 15;

Article 16(1), so far as it relates to sections 17, 44 to 47, 59A and 66 of the principal Act and Articles 30 and 34 of the 1986 Order and to the insertion of paragraph (7A) in Article 54 of that Order;

Article 16(2), so far as it relates to—

(a) sections 45, 45A, 46, 47B and 66 of the principal Act;

(b) Schedule 1 to the Social Security (Northern Ireland) Order 1980(4); and

(c) Article 15(4)(a) of the Social Security (Northern Ireland) Order 1985(5);

Article 17.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(6) 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;

“the 1986 Order” means the Social Security (Northern Ireland) Order 1986(7);

“the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975(8);

“the principal Act” means the Social Security (Northern Ireland) Act 1975(9);

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(10).

Attendance allowance

Attendance allowance

3.—(1) In section 35(1) of the principal Act, for paragraph (b) there shall be substituted the following paragraph—

“(b) he is so severely disabled physically or mentally that, at night,—

(i) he requires from another person prolonged or repeated attention in connection with his bodily functions, or

(ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.”.

(4) 1980 NI 8

(5) 1985 NI 16

(6) 1954 c. 33 (N.I.)

(7) 1986 NI 18

(8) 1975 NI 15

(9) 1975 c. 15

(10) 1954 c. 33 (N.I.)

(2) Section 35 of the principal Act shall have effect as amended by paragraph (1) only for the purposes—

- (a) of any determination by the Attendance Allowance Board or a delegate appointed under paragraph 5 of Schedule 11 to that Act following a claim made after the commencement of this Article;
- (b) of any review by the Board or by such a delegate following an application made after the commencement of this Article;
- (c) of any review by the Board or by such a delegate under section 106(1)(a) or (bb) of the principal Act following a decision to conduct such a review made after the commencement of this Article;
- (d) of any issue, revocation or alteration of a certificate relating to attendance allowance which takes place following a determination, review or appeal such as is mentioned in subparagraph (a), (b) or (c).

Industrial injuries

Introduction of retirement allowance and other provisions relating to industrial injuries benefit

4.—(1) After section 59A of the principal Act there shall be inserted the following section—

“Retirement allowance.

59B.—(1) Subject to the provisions of this Part of this Act, a person who—

- (a) has attained pensionable age; and
- (b) retires, or is deemed under section 27(5) above to have retired, from regular employment on or after the date on which this section comes into operation; and
- (c) was entitled to reduced earnings allowance (by virtue either of one award or of a number of awards) on the day immediately before he retired or is deemed to have retired,

shall cease to be entitled to reduced earnings allowance as from the day on which he retires or is deemed to have retired and may be entitled to it again only if he makes an election in accordance with regulations under section 30(3) above.

(2) If the day before a person ceases under subsection (1) above to be entitled to reduced earnings allowance he is entitled to the allowance (by virtue either of one award or of a number of awards) at a weekly rate or aggregate weekly rate of not less than £2.00, he shall be entitled to a benefit, to be known as “retirement allowance”.

(3) Unless he makes an election in accordance with regulations under section 30(3) above, retirement allowance shall be payable to him (subject to any enactment contained in Chapter VI of this Part of this Act and to any regulations made under any such enactment) for life.

(4) If he makes such an election, his entitlement to retirement allowance shall cease on the day on which the election takes effect.

(5) Subject to subsection (6) below, the weekly rate of a beneficiary’s retirement allowance shall be—

- (a) 25 per cent. of the weekly rate of reduced earnings allowance to which he was entitled the day before he ceased to be entitled to that allowance; or
- (b) 10 per cent. of the maximum rate of a disablement pension,

whichever is the less.

- (6) If the weekly rate of the beneficiary's retirement allowance—
- (a) would not be a whole number of pence; and
 - (b) would exceed the whole number of pence next below it by $\frac{1}{2}$ p. or more,
- the beneficiary shall be entitled to retirement allowance at a rate equal to the next higher whole number of pence.”.
- (2) Section 59A(8) of the principal Act shall be modified in the case of a person who retired from regular employment before 6th April 1987 by the substitution for “140 per cent.” of “100 per cent.”.
- (3) A person who—
- (a) on 10th April 1988; or
 - (b) on the day before paragraph (1) comes into operation,
- satisfies the conditions—
- (i) that he has attained pensionable age;
 - (ii) that he has retired from regular employment; and
 - (iii) that he is entitled to reduced earnings allowance,
- shall be entitled to that allowance for life.
- (4) In the case of any beneficiary who is entitled to reduced earnings allowance by virtue of paragraph (3), the allowance shall be payable, subject to any enactment contained in Chapter VI of Part II of the principal Act and to any regulations made under any such enactment, at the weekly rate at which it was payable to the beneficiary on the relevant date or would have been payable to him on that date but for any such enactment or regulations.
- (5) For a beneficiary who is entitled to reduced earnings allowance by virtue of paragraph (3) (a) the relevant date is 10th April 1988.
- (6) For a beneficiary who is entitled to it by virtue of paragraph (3)(b) the relevant date is the day before paragraph (1) came into operation.
- (7) After paragraph (1) comes into operation no person over pensionable age and retired from regular employment shall be entitled to reduced earnings allowance otherwise than under paragraph (3).
- (8) References in paragraphs (2), (3) and (7) to a person who has retired from regular employment include references—
- (a) to a person who under subsection (3) of section 27 of the principal Act is treated for the purposes of that Act as having retired from regular employment; and
 - (b) to a person who under subsection (5) of that section is deemed for those purposes to have retired from it.
- (9) Schedule 1 shall have effect in relation to industrial death benefit.

Family credit

Commencement of payment of family credit

5. In Article 21 of the 1986 Order—
- (a) after paragraph (5) there shall be inserted the following paragraph—

“(5A) In paragraph (5) “the applicable amount” means the applicable amount at such date as may be prescribed.”; and
 - (b) in paragraph (6) the words “, beginning with the week in which a claim for it is made or is treated as made” shall cease to have effect.

Young persons

Income support and child benefit

6.—(1) In Article 21 of the 1986 Order, in paragraph (3)(a) (by virtue of which a person in Northern Ireland is entitled to income support if he is of or over the age of 16) for “16” there shall be substituted “18 or, in prescribed circumstances and for a prescribed period, of or over the age of 16 or he is a person to whom paragraph (4A) applies”.

(2) After paragraph (4) of that Article there shall be inserted the following paragraphs—

“(4A) If it appears to the Department—

(a) that a person of or over the age of 16 but under the age of 18 is not entitled to income support; and

(b) that severe hardship will result to that person unless income support is paid to him, the Department may direct that this paragraph shall apply to him.

(4B) Any such direction may specify a period for which paragraph (4A) is to apply to the person to whom the direction relates.

(4C) The person to whom such a direction relates shall be treated in accordance with it, but if at any time it appears to the Department that there has been a change of circumstances as a result of which failure to receive income support need no longer result in severe hardship to him, the Department may revoke the direction.

(4D) The Department may also revoke the direction if—

(a) it is satisfied that the direction was given in ignorance of some material fact or was based on a mistake as to some material fact; and

(b) it considers that but for its ignorance or mistake it would not have determined that failure to receive income support would result in severe hardship.

(4E) Where—

(a) a direction under paragraph (4A) is revoked; and

(b) it is determined by an adjudication officer that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure a payment of income support has been made during the relevant period to the person to whom the direction related,

an adjudication officer may determine that the Department shall be entitled to recover the amount of the payment.

(4F) Article 54(2) and (5) to (9) apply to income support recoverable under paragraph (4E) as they apply to income support recoverable under Article 54(1).

(4G) The other provisions of Article 54 do not apply to income support recoverable under paragraph (4E).

(4H) In paragraph (4E) “the relevant period” means—

(a) if the revocation is under paragraph (4C), the period beginning with the date of the change of circumstances and ending with the date of the revocation; and

(b) if the revocation is under paragraph (4D), the period during which the direction was in force.

(4J) Where a direction under paragraph (4A) is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.

(4K) If the Department certifies that there has been such misrepresentation or failure to disclose, it may also certify—

- (a) who made the misrepresentation or failed to make the disclosure; and
- (b) whether or not a payment of income support has been made in consequence of the misrepresentation or failure.

(4L) If the Department certifies that a payment has been made, it may certify the period during which income support would not have been paid but for the misrepresentation or failure to disclose.

(4M) A certificate under this Article shall be conclusive for the purposes of this Article as to any matter certified.

(4N) In paragraphs (3)(a) and (4B) “period” includes—

- (a) a period of a determinate length;
- (b) a period defined by reference to the happening of a future event; and
- (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.”.

(3) In Article 4(1) of the Child Benefit (Northern Ireland) Order 1975(11), after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) he is under the age of eighteen and not receiving full-time education and prescribed conditions are satisfied in relation to him; or”.

(4) In Article 6(1) of that Order, after “4(1)(b)” there shall be inserted the words “or by virtue of Article 4(1)(aa) and regulations made under that sub-paragraph”.

Short-term benefits

Contribution conditions for short-term benefits

7.—(1) Schedule 3 to the principal Act shall be amended as follows.

(2) In paragraph 1—

- (a) in sub-paragraph (2)(a), for the words “in respect of any one year have actually paid contributions of a relevant class,” there shall be substituted the words

“have actually paid contributions of a relevant class—

- (i) in the case of unemployment benefit, in respect of one of the last two complete years before the beginning of the relevant benefit year; and
- (ii) in the case of sickness benefit, in respect of any one year.”; and

(b) in sub-paragraph (3)—

- (i) in head (a), for the words “relevant past year” there shall be substituted the words “last two complete years before the beginning of the relevant benefit year”; and
- (ii) in head (b), for the words “than that” there shall be substituted the words “in each of those years than the”.

(3) In paragraph 8(3), the words from “paragraph (b)”, in the first place where those words occur, to “of”, in the fourth place where it occurs, shall cease to have effect.

(4) Paragraph 9 shall cease to have effect.

Unemployment benefit and occupational pension

8. In Article 5(1) of the Social Security (No. 2) (Northern Ireland) Order 1980⁽¹²⁾ (which provides for the reduction of unemployment benefit for a person who has attained the age of 60 if payments by way of occupational pension exceeding a prescribed sum are made to him for any week), for “60” there shall be substituted “55”.

Emergency payments

Emergency payments by Health and Social Services Boards, etc.

9.—(1) The Department may make arrangements—

- (a) with a Board; or
- (b) with any other body,

for the making on behalf of the Department by members of the staff of any Board or body of payments on account of benefits to which Article 52 of the 1986 Order applies in circumstances corresponding to those in which the Department itself has the power to make such payments under Article 52(1)(s) of that Order; and a Board shall have power to enter into any such arrangements.

(2) A payment under any such arrangements shall be treated for the purposes of any statutory provision as if it had been made by the Department.

(3) The Department shall repay a Board or other body such amount as the Department determines to be the reasonable administrative expenses incurred by the Board or body in making payments in accordance with arrangements under this Article.

(4) In this Article “Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹³⁾.

Earnings factors, etc.

Earnings factors and transfer values

10. Part I of Schedule 2 shall have effect in relation to the calculation of earnings factors and of guaranteed minimum pensions partly attributable to earnings factors for the period before the tax year 1988—89 and Part II shall have effect in relation to transfer values.

Increase and reduction of benefit by reference to earnings

11.—(1) Increases and reductions of benefit under the principal Act which in pursuance of any provision to which this Article applies fall to be calculated by reference to a person’s earnings shall be calculated by reference to earnings from employment or to earnings from payments by way of occupational pension or to earnings of both descriptions, if the person is entitled to them.

(2) This Article applies to sections 41, 44 to 47, 64 and 66 of the principal Act.

The social fund

Amendments relating to the social fund

12. Schedule 3 (which contains amendments relating to the social fund) shall have effect.

(12) 1980 NI 13

(13) 1972 NI 14

*Welfare foods***Schemes for distribution, etc., of welfare foods**

13.—(1) In this Article “welfare food” means liquid cows' milk, dried milks, vitamin tablets and vitamin drops.

(2) The Department may by order add any food to or remove any food from the foods referred to in paragraph (1).

(3) The Department may by regulations make a scheme, or a number of schemes—

- (a) for the provision of welfare food; and
- (b) for the making of payments to such persons as may be determined by or under the scheme who are entitled to receive a welfare food but who—
 - (i) do not receive it;
 - (ii) do not receive the amount to which they are so entitled.

(4) Any such regulations—

- (a) may provide for the distribution or disposal, by or on behalf of the Department, of any welfare food, and the use or consumption of any such food;
- (b) may control any prices to be charged for any welfare food provided under the scheme;
- (c) may provide for an amount to be reimbursed by the Department to a supplier of any welfare food under the scheme;
- (d) may provide for requiring such information or evidence as may be reasonably needed in connection with the administration of the scheme to be furnished by such persons as may be specified to an officer of the Department duly authorised in that behalf, on production by the officer (if required to do so) of his authority; and
- (e) may direct that specified provisions relating to the administration of benefit under the principal Act (including provisions relating to offences and criminal proceedings) shall have effect for the purpose of the administration of the scheme, subject to any modifications specified in the regulations,

and in sub-paragraph (e) “modifications” includes additions, omissions and amendments.

(5) The power conferred by paragraph (4) to make regulations requiring a person to produce information or evidence shall include power to make regulations providing that—

- (a) if documents specified by an officer are produced—
 - (i) he may take copies of them or extracts from them; and
 - (ii) he may require that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them; and
- (b) if documents so specified are not produced, he may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(6) Section 155(1) to (3A) of the principal Act (extent of powers) shall apply to powers conferred by this Article to make regulations or orders as they apply to any power to make regulations or orders conferred by that Act but as if for the references to that Act there were substituted references to this Article.

(7) Section 156(1) of the principal Act (confirmatory procedure) shall apply to orders under this Article and regulations under this Article shall be subject to negative resolution.

- (8) The Welfare Foods Act (Northern Ireland) 1968⁽¹⁴⁾ shall cease to have effect.

Health service

Payment of travelling expenses, etc., and remission of charges

14.—(1) In Article 45 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹⁵⁾ (travelling expenses of patients, etc.)—

- (a) in paragraph (a) (person availing himself of prescribed services), after the words “any person” there shall be inserted the words “of a prescribed description”; and
- (b) in paragraph (c) (visiting relative), after the words “any relative” there shall be inserted the words “being a person of a prescribed description.”; and
- (c) at the end of paragraph (c) there shall be added the following paragraph—

“(2) Paragraph 1B of Schedule 15 (powers to prescribe descriptions of persons) shall have effect in relation to paragraph (1) as it has effect in relation to paragraph 1(b) of that Schedule.”.

(2) In Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹⁶⁾ (charges in respect of certain services, and other related matters)—

- (a) in paragraph 1(b) (remission or repayment of charges) for the words from “any such prescribed charge” to “classes of persons” there shall be substituted the words “such charges in respect of persons of such descriptions”;
- (b) after paragraph 1A there shall be inserted the following paragraph—

“**1B.**—(1) Descriptions of persons may be prescribed for the purposes of paragraph 1(b) by reference to any criterion and, without prejudice to the generality of this subparagraph, by reference to any of the following criteria—

- (a) their age;
- (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
- (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
- (d) their receipt of benefit in money or in kind under any transferred provision or their entitlement to receive any such benefit;
- (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits; and
- (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.

(2) Regulations under this paragraph may direct how a person’s resources and requirements are to be calculated and, without prejudice to the generality of this subparagraph, may direct that they shall be calculated—

- (a) by a method set out in the regulations; or

⁽¹⁴⁾ 1968 c. 26 (N.I.)

⁽¹⁵⁾ 1972 NI 14

⁽¹⁶⁾ 1972 NI 14

- (b) by a method described by reference to a method of calculating or estimating income or capital specified in a transferred provision other than this paragraph or by reference to such a method but subject to prescribed modifications; or
 - (c) by reference to an amount applicable for the purposes of a payment under a transferred provision; or
 - (d) by reference to the person's being or having been entitled to payment under a transferred provision.
- (3) Regulations under this paragraph which refer to a transferred provision may direct that the reference is to be construed as a reference to that provision—
- (a) as it has effect at the time when the regulations are made; or
 - (b) both as it has effect at that time and as amended subsequently.”.

General and supplementary

Financial provision

15. There shall be paid out of the Northern Ireland National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Department of Finance and Personnel may direct, such sums as the Department may estimate (in accordance with any directions given by the Department of Finance and Personnel) to be the amount of the administrative expenses incurred by the Department under Articles 4, 7, 8, 10 and 11, excluding any category of expenses which the Department of Finance and Personnel may direct, or any statutory provision may require, to be excluded from the Department's estimate under this Article.

Minor and consequential amendments and repeals

16.—(1) The statutory provisions mentioned in Schedule 4 shall have effect with the amendments there specified.

(2) The statutory provisions mentioned in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.

Transitional and consequential provisions and savings

17.—(1) The Department may by regulations subject to negative resolution make—

- (a) such transitional provision;
- (b) such consequential provision; or
- (c) such savings,

as the Department considers necessary or expedient in preparation for or in connection with the coming into operation of any provision of this Order or the operation of any statutory provision which is repealed or amended by a provision of this Order during any period when the repeal or amendment is not wholly in operation.

(2) Regulations under paragraph (1) may make modifications of any statutory provision (including this Order); and in this paragraph “modifications” includes additions, omissions and amendments.

(3) Section 155(1) to (3A) of the principal Act shall apply to the power to make regulations conferred by paragraph (1) as they apply to any power to make regulations conferred by that Act but as if for references to that Act there were substituted references to that paragraph.

G. I. de Deney
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 4.

INDUSTRIAL DEATH BENEFIT

1. In Schedule 4 to the principal Act, in Part V, paragraphs 13(b) and 14, “£41.15” shall be substituted for “£41.70”.

2. The repeals by the 1986 Order of the provisions mentioned in paragraph 8 of Schedule 3 to that Order other than the repeals of sections 67(2)(b) and 71 to 74 of the principal Act, shall only take effect in relation to deaths occurring on or after 11th April 1988.

3. Section 69 of the principal Act (widower’s death benefit) shall cease to have effect except in relation to deaths before 11th April 1988.

4. Paragraph 9 of Schedule 3 to the 1986 Order shall cease to have effect.

5. In paragraph 10 of that Schedule—

(a) after the word “dies” there shall be inserted the words “on or after 11th April 1988”; and

(b) the following sub-paragraph shall be substituted for sub-paragraph (iv)—

“(iv) a Category B retirement pension which is at the same rate as her widow’s pension or which falls within section 29(4) of the principal Act.”.

6.—(1) Any repeal by the 1986 Order—

(a) of a provision to which this paragraph applies; or

(b) of any part of such a provision,

shall not take effect—

(i) in relation to deaths occurring before 11th April 1988; or

(ii) for the purposes of paragraph 10 of Schedule 3 to that Order.

(2) The provisions to which this paragraph applies are—

(a) in the principal Act, sections 75(1), 90(2)(a), 107(4) and 117(4) and section 117(5)(a) and the word “and” immediately following it; and

(b) Article 8 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(17).

SCHEDULE 2

Article 10.

EARNINGS FACTORS AND TRANSFER VALUES

PART I

EARNINGS FACTORS

- 1.—(1) In section 13 of the principal Act—
 - (a) in subsection (5) (earnings factors to be expressed as whole numbers of pounds), after “shall”, in the first place where it occurs, insert “, subject to subsection (5ZA) below,”; and
 - (b) after that subsection insert the following subsection—

“(5ZA) Subsection (5) above does not require earnings factors which have been revalued for the purpose of calculating guaranteed minimum pensions to be expressed as whole numbers of pounds.”.
- (2) In Article 37(5) of the Pensions Order (earner’s guaranteed minimum), after “by” insert “the same percentage as that prescribed for the increase of earnings factors by”.
- (3) This paragraph shall be deemed to have come into operation on 6th April 1979.
2. After Article 70A of the Pensions Order insert the following Article—

“Guaranteed minimum pensions attributable in part to period before 1988—1989

70B. Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988—1989 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by applying Article 70A separately to the amount attributable to the period before the tax year 1988—1989 and to the amount attributable to that and subsequent tax years and then aggregating the two amounts so calculated.”.

PART II

TRANSFER VALUES

3. In paragraph 12 of Schedule 1A to the Pensions Order—
 - (a) in sub-paragraph (2), in the definition of “the relevant date”, after “means” insert “, subject to regulations under sub-paragraph (2C),”; and
 - (b) after sub-paragraph (2B) insert the following sub-paragraph—

“(2C) Regulations—

 - (a) may provide that a right at the relevant date to the cash equivalent of any part of the benefits specified in sub-paragraph (1) which but for regulations under the foregoing provisions of this paragraph a member would have on the termination of his pensionable service in an employment to which a scheme applies shall, if his employment terminates at least one year before normal pension age, accrue to him on the date when it terminates and be valued accordingly; and
 - (b) may substitute, in relation to any case to which the regulations apply—
 - (i) a new definition of “the relevant date” for the definition in sub-paragraph (2), and

- (ii) a new definition of “the last option date” for the definition in paragraph 15(2).”.

SCHEDULE 3

Article 12.

THE SOCIAL FUND

Article 33 of the 1986 Order

1. After paragraph (2) insert the following paragraph—
 - “(2A) Payments may also be made out of that fund, in accordance with this Part, of a prescribed amount or a number of prescribed amounts to prescribed descriptions of persons, in prescribed circumstances to meet expenses for heating which appear to the Department to have been or to be likely to be incurred in cold weather.”.
2. Paragraph (3) shall cease to have effect.
3. After paragraph (7) insert the following paragraphs—
 - “(7A) The Department shall prepare an annual report on the social fund.
 - “(7B) A copy of every report prepared under paragraph (7A) shall be laid before the Assembly.”.
4. In paragraph (8) the words from “and” to the end shall cease to have effect.
5. After paragraph (8) insert the following paragraphs—
 - “(8A) The Department shall allocate amounts for payments from the social fund such as are mentioned in paragraph (2)(b) in a financial year.
 - “(8B) The Department may specify the amounts either as sums of money or by reference to money falling into the social fund on repayment or partial repayment of loans, or partly in the former and partly in the latter manner.
 - “(8C) Allocations—
 - (a) may be for payments by a particular social fund officer or group of social fund officers;
 - (b) may be of different amounts for different purposes;
 - (c) may be made at such time or times as the Department considers appropriate; and
 - (d) may be in addition to any other allocation to the same officer or group of officers or for the same purpose.
 - “(8D) The Department may at any time re-allocate amounts previously allocated, and paragraphs (8B) and (8C) shall have effect in relation to a re-allocation as they have effect in relation to an allocation.”.
6. After paragraph (9) add the following paragraphs—
 - “(10) The Department may nominate for an area a social fund officer to issue general guidance to the other social fund officers in the area about such matters relating to the social fund as the Department may specify.
 - “(11) In determining any question under Article 34 or reviewing a question under Article 35 a social fund officer shall take account (subject to any directions or guidance issued by the Department under either of those Articles) or any guidance issued by the social fund officer nominated for his area under this paragraph (10).

(12) A social fund inspector reviewing a determination shall be under the same duties in relation to such guidance as the social fund officer or inspector who made the determination.”.

Article 34 of the 1986 Order

7. At the end of paragraph (1) add “in such form and manner as may be prescribed”.
8. After paragraph (1) insert the following paragraph—

“(1A) The power to make a payment out of the social fund under Article 33(2)(b) may be exercised by making a payment to a third party with a view to the third party providing, or arranging for the provision of, goods or services for the applicant.”.
9. After paragraph (4) insert the following paragraph—

“(4A) An award that is to be repayable shall be repayable upon such terms and conditions as before the award is paid the Department notifies to the person by or on behalf of whom the application for it was made.”.
10. In paragraph (9)(e) for “(8)” substitute “(8A) to (8D)”.
11. After paragraph (10) insert the following paragraph—

“(10A) Without prejudice to the generality of paragraph (10), the power to issue general directions conferred on the Department by that paragraph includes power to direct—

 - (a) that in circumstances specified in the direction a social fund officer shall not determine an application and, without prejudice to the generality of this subparagraph, that a social fund officer shall not determine an application which is made before the end of a specified period after the making of an application by the same person for a payment such as is mentioned in Article 33(2)(b) to meet the same need and without there having been any relevant change of circumstances since the previous application;
 - (b) that for a category of need specified in the direction a social fund officer shall not award less than an amount specified in the direction;
 - (c) that for a category of need specified in the direction a social fund officer shall not award more than an amount so specified;
 - (d) that payments to meet a category of need specified in the direction shall in all cases or in no case be made by instalments; and
 - (e) that payments to meet a category of need specified in the direction shall in all cases or in no case be repayable,

and the power to issue general guidance conferred on the Department by that paragraph includes power to give social fund officers guidance as to any matter to which directions under that paragraph may relate.”.

Miscellaneous provisions of the 1986 Order

12. In Article 35(1)(a) omit “to him”.
13. In Article 52(2), 53(6) and 54(10) (claims and payments, adjudication and overpayments) after “33(2)(a)” insert “or (2A)”.

SCHEDULE 4

Article 16(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The principal Act

1. In section 17 (determination of days for which benefit is payable), after subsection (2) insert the following subsection—

“(2A) Where it has been determined that a person is to be deemed in accordance with regulations to be available for employment in employed earner’s employment in respect of any day, the question of his actual availability for such employment in respect of that day may be subsequently determined on a review of the determination as to his deemed availability.”.

2. In section 22 (maternity allowance)—

(a) at the end of subsection (4) add “unless the woman is disqualified for receiving a maternity allowance in respect of that day by virtue of regulations under subsection (3)(a) above”; and

(b) after that subsection insert the following subsection—

“(4A) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she dies after the beginning, but before the end, of that period, the allowance shall not be payable for any week subsequent to that in which she dies.”.

3. In section 44 (short-term benefit increase for adult dependants)—

(a) in subsection (1)(b), for “is not engaged in any one or more employments from which her weekly earnings” substitute “does not have weekly earnings which”; and

(b) in subsection (3)(a), for “is not engaged in any one or more employments from which his weekly earnings exceed the amount so specified” substitute “does not have weekly earnings which exceed the amount so specified”.

4. In section 45 (pension increase (wife))—

(a) in subsection (2)(b), for “is not engaged in any one or more employments from which her weekly earnings” substitute “does not have weekly earnings which”; and

(b) in subsection (2A), the words “is engaged in any one or more employments from which she” shall cease to have effect.

5. In section 45A (pension increase (husband))—

(a) in subsection (2)(b), for “is not engaged in any one or more employments from which his weekly earnings” substitute “does not have weekly earnings which”; and

(b) in subsection (3), the words “is engaged in any one or more employments from which he” shall cease to have effect.

6. In subsection (4) of section 46 (pension increase (female with care of children)) the words “from employment by the pensioner” shall cease to have effect.

7. In subsection (1)(a) of section 47 (invalidity pension (dependent relative)) for “is not engaged in any one or more employments from which he has earnings” substitute “does not have earnings”.

8. After subsection (1) of section 50 (descriptions of industrial injuries benefits) insert the following subsection—

“(1A) The benefits are—

- (a) disablement benefit (including disablement pensions) payable in accordance with sections 57 to 63 below;
 - (b) reduced earnings allowance payable in accordance with section 59A below and Article 4 of the Social Security (Northern Ireland) Order 1988;
 - (c) retirement allowance payable in accordance with section 59B below;
 - (d) industrial death benefit, payable in accordance with sections 67 to 75 below.”.
- 9.** In section 59A (reduced earnings allowance)—
- (a) in subsection (8), after “disablement pension”, in the second place where it occurs, insert “(not including increases in disablement pension under any provision of this Act)”; and
 - (b) after subsection (10) insert the following subsection—
“(10A) In this section and section 59B below “maximum rate of a disablement pension” means the rate specified in the first entry in column (2) of Schedule 4, Part V, paragraph 3 and does not include increases in disablement pension under any provision of this Act.”.
- 10.** In section 66 (adult dependants) there shall cease to have effect—
- (a) in subsection (3), the words “from any one or more employments”; and
 - (b) in subsection (4) the words “is engaged in any one or more employments from which he or she”.
- 11.** At the end of subsection (1)(c) of section 104 (review of decisions) add “or (d) the decision falls to be reviewed under section 17(2A) above,”.

The 1986 Order—statutory maternity pay

- 12.—**(1) In Article 47(8)(e), for “paragraph (2)(a) or (b) or both” substitute “any of the provisions specified in paragraph (9)”.
- (2) At the end of that Article, add the following paragraph—
- “(9) The provisions mentioned in paragraph (8)(e) are—
 - (a) paragraph (2)(a) and (b); and
 - (b) Article 49(2), (4) and (5).”.
- 13.** At the end of Article 49(2) add “or the weekly rate prescribed under paragraph (3), whichever is the higher”.
- 14.** In Article 51(1), in the definition of “employer”, the words “and a contract of service of hers” and the words “under the contract” shall cease to have effect.
- 15.—**(1) In paragraph 11 of Schedule 4, for “Any” substitute “Except as may be prescribed, a”.
- (2) After that paragraph insert the following paragraph—
- “**11A.—**(1) Regulations may provide that in prescribed circumstances a day which falls within the maternity pay period shall be treated as a day of incapacity for work for the purpose of determining entitlement to an invalidity pension.
 - (2) Regulations may provide that an amount equal to a woman’s statutory maternity pay for a period shall be deducted from invalidity benefit in respect of the same period and a woman shall be entitled to invalidity benefit only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.”.

Other amendments of the 1986 Order

16.—(1) In paragraph (1) of Article 22 (amount etc. of income-related benefit) for “Where” substitute “Subject to paragraph (1A), where”.

(2) After that paragraph, insert the following paragraphs—

“(1A) Where a person is entitled to income support for a period to which this paragraph applies, the amount payable for that period shall be calculated in such manner as may be prescribed.

(1B) Paragraph (1A) applies—

- (a) to a period of less than a week which is the whole period for which income support is payable; and
- (b) to any other period of less than a week for which it is payable.”.

17.—(1) In Article 24 (trade disputes), after paragraph (5) insert the following paragraph—

“(5A) In respect of any period less than a week paragraph (5) shall have effect subject to such modifications as may be prescribed.”.

(2) In paragraph(6) of that Article, for “paragraph (5)” substitute “this Article”.

18. After Article 24, insert the following Article—

“Effect of return to work

24A. If a person returns to work with the same employer after a period during which Article 24 applies to him, and whether or not his return is before the end of any stoppage of work in relation to which he is or would be disqualified for receiving unemployment benefit—

- (a) that Article shall cease to apply to him at the commencement of the day on which he returns to work; and
- (b) until the end of the period of 15 days beginning with that day Article 21(3) shall have effect in relation to him as if the following sub-paragraph were substituted for sub-paragraph (c)—
 - “(c) in the case of a member of a married or unmarried couple, the other member is not engaged in remunerative work; and”; and
- (c) any sum paid by way of income support for that period of 15 days to him or, where he is a member of a married or unmarried couple, to the other member of that couple shall be recoverable in the prescribed manner from the person to whom it was paid or from any prescribed person or, where the person to whom it was paid is a member of a married or unmarried couple, from the other member of the couple.”.

19. At the end of Article 30, add the following paragraph—

“(8) Without prejudice to any other method of recovery, amounts recoverable under any statutory provision having effect in Great Britain and corresponding to this Article shall be recoverable by deduction from benefits prescribed under paragraph (7).”.

20. After Article 34(8), insert the following paragraph—

“(8A) Without prejudice to any other method of recovery, awards recoverable under Part III of the Social Security Act 1986 shall be recoverable by deduction from benefits prescribed under paragraph (6), and paragraphs (7) and (8) shall have effect in relation to such awards as they have effect in relation to awards under this Part.”.

21. After Article 54(7), insert the following paragraph—

“(7A) Without prejudice to any other method of recovery, amounts recoverable under any statutory provision having effect in Great Britain and corresponding to a statutory provision mentioned in paragraph (7) shall be recoverable by deduction from benefits prescribed under paragraph (7).”.

22. Paragraphs 19 to 21 shall be deemed to have come into operation on 6th April 1987.

23.—(1) In sub-paragraph (c) of paragraph (10) of Article 54, before “income” insert “subject to paragraph (10A),”.

(2) After that paragraph insert the following paragraph—

“(10A) This Article only applies to income support recoverable under Article 21(4E) to the extent specified in Article 21(4F) and (4G).”.

SCHEDULE 5

Article 16(2).

REPEALS

Chapter or Number	Title	Extent of repeal
1968 c. 26 (N.I.).	The Welfare Foods Act (Northern Ireland) 1968.	The whole Act.
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	In section 45(2A), the words “is engaged in any one or more employments from which she”.In section 45A(3), the words “is engaged in any one or more employments from which he”.In section 46(4), the words “from employment by the pensioner”.In section 47B(1), paragraph (b) and the word “and” immediately preceding it.Section 59A(11).In section 66, in subsection (3), the words “from any one or more employments” and in subsection (4), the words “is engaged in any one or more employments from which he or she”.Section 69.In Schedule 3, paragraph 1(4)(b), in paragraph 8(3), the words from “paragraph (b)”, in the first place where those words occur, to “of”, in the fourth place where it occurs, and paragraph 9.

Status: This is the original version (as it was originally made).

Chapter or Number	Title	Extent of repeal
1980 NI 8.	The Social Security (Northern Ireland) Order 1980.	In Schedule 1, paragraph 2.
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraph 83.
1985 NI 16.	The Social Security (Northern Ireland) Order 1985.	Article 15(4)(a).
1986 NI 18.	The Social Security (Northern Ireland) Order 1986.	In Article 2(2), the definition of “social fund payment”. In Article 21(6), the words “, beginning with the week in which a claim for it is made or is treated as made”. Article 24(8). In Article 33, paragraph (3), in paragraph (4), the words “Social fund” and in paragraph (8), the words “social fund”, in the second place where they occur, and the words from “and” to the end. In Article 34(1), the words “social fund”. In Article 35(1) (a), the words “to him” and the words “social fund”, in the second place where they occur. In Article 51(1), in the definition of “employer”, the words “and a contract of service of hers” and the words “under the contract”. In Article 52(2), the words “social fund”. In Article 53(6), the words “social fund”. In Article 54(10), the words “social fund”. In Schedule 3, paragraph 5(3) to (8) and paragraphs 9 and 11.
1987 NI 22.	The Adoption (Northern Ireland) Order 1987.	Article 47(3). The repeal of section 69 of the Social Security (Northern Ireland) Act 1975 is subject to paragraph 3 of Schedule 1.

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order is made only for purposes corresponding to those of the Social Security Act 1988.

Article 3 amends one of the night-time conditions for entitlement to an attendance allowance. Article 4 and Schedule 1 contain amendments relating to industrial injuries benefits. Article 5 allows the date from which family credit is payable to be prescribed in regulations.

Article 6(1) amends the basic conditions for entitlement to income support so that persons under 18 will not be able to receive that benefit except in circumstances and for periods to be prescribed in regulations or where in cases of severe hardship the Department of Health and Social Services directs that Article 6(2) shall apply to that person. Article 6(3) enables the period for which child benefit may be paid in respect of a person under 18 who is not receiving full-time education to be extended, subject to the satisfaction of conditions to be prescribed in regulations.

Article 7 amends both contribution conditions for entitlement to unemployment benefit and the second contribution condition for sickness benefit. Article 8 reduces from 60 to 55 the age at which unemployment benefit is abated on account of payments by way of occupational pension.

Article 9 enables the Department of Health and Social Services to arrange with Health and Social Services Boards and other bodies to make on behalf of the Department payments on account of social security benefit during an emergency.

Article 10 and Schedule 2 make amendments relating to earnings factors and transfer values. Article 11 provides that in relation to dependency increases, earnings include payments by way of occupational pension. Article 12 and Schedule 3 contain amendments relating to the social fund including provision for payments for heating in cold weather and provision for an annual report on the fund by the Department of Health and Social Services. Article 13 replaces the Welfare Foods Act (Northern Ireland) 1968 and enables the Department of Health and Social Services to make arrangements by subordinate legislation for schemes for the distribution of welfare foods. Article 14 makes further provision for the payment of travelling expenses and the remission of health service charges.