
STATUTORY INSTRUMENTS

1999 No. 3147

**The Welfare Reform and Pensions
(Northern Ireland) Order 1999**

PART VI

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

Additional pensions

Preservation of rights in respect of additional pensions

49.—(1) The Department may by regulations make such provision as is authorised by one or more of paragraphs (2) to (4).

(2) The regulations may provide for any prescribed provision of Part II of the Contributions and Benefits Act (contributory benefits) which relates to additional pension for widows or widowers to have effect, in relation to persons of any prescribed description, with such modifications as may be prescribed for securing—

- (a) that any such additional pension, or
- (b) in the case of any provision of Schedule 5 to that Act (increase of pension where entitlement is deferred), that any constituent element of an increase provided for by that Schedule,

is increased by such percentage as may be prescribed (which may be 100 per cent.).

(3) The regulations may amend (or further amend) any prescribed provision of Part II of the Contributions and Benefits Act falling within paragraph (2) by substituting for any reference to the year 2000 (or any year previously substituted by virtue of this paragraph) a reference to such later year as may be prescribed.

(4) The regulations may make provision for and in connection with—

- (a) the establishment, for a prescribed period, of a scheme for dealing with claims made by persons on the grounds that, in reliance on any incorrect or incomplete information provided by a government department with respect to the SERPS reduction (however that information came to their knowledge), they—
 - (i) failed to take any, or any particular, relevant steps which they would have taken, or
 - (ii) took any steps which they would not have taken, had they instead received correct and complete information with respect to that reduction; and
- (b) securing that, where persons have made successful claims under the scheme, surviving spouses of those persons (or, as the case may be, those persons themselves) will not be affected by the SERPS reduction.

(5) In paragraph (4) “relevant steps”, in relation to a person, means steps towards safeguarding the financial position of that person’s spouse in the event of the spouse becoming that person’s surviving spouse or (as the case may be) towards safeguarding that person’s own financial position in the event of that person becoming a surviving spouse (whether or not, in either case, that person was at any material time already married); and “the SERPS reduction” means—

- (a) (in the context of paragraph (4)(a)) the operation of any of—
 - (i) the provisions of Article 20 of the Social Security (Northern Ireland) Order 1986, or
 - (ii) the provisions of Part II of the Contributions and Benefits Act reproducing the effect of those provisions;
- (b) (in the context of paragraph (4)(b)) the operation of any of the provisions of the Contributions and Benefits Act mentioned in sub-paragraph (a)(ii) or of section 39C(4) or 48BB(7) of that Act.

(6) Regulations under paragraph (4) may, in particular, make provision—

- (a) with respect to the time within which, and the manner in which, claims under the scheme are to be made;
- (b) for requiring claimants—
 - (i) to supply such information in connection with their claims as may be prescribed or reasonably requested by any person for the purpose of dealing with their claims,
 - (ii) to attend interviews at such time and place as may be reasonably specified by any person for that purpose;
- (c) for a claim to be disallowed where the claimant fails to comply with a requirement imposed by virtue of sub-paragraph (a) or (b) and does not show within the prescribed period that he had good cause for that failure;
- (d) prescribing—
 - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with any such requirement, or
 - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure;
- (e) prescribing the conditions which must be satisfied in relation to any claim in order for it to be a successful claim under the scheme;
- (f) with respect to—
 - (i) the manner in which decisions under the scheme are to be made (which may include authorising decisions of any prescribed description to be made by a computer), and
 - (ii) the time within which, and the manner in which, such decisions are to be notified to claimants;
- (g) for provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) to apply in relation to decisions under the scheme with such modifications as may be prescribed;
- (h) for provisions of Part II of the Contributions and Benefits Act to apply in relation to—
 - (i) surviving spouses of persons who have made successful claims under the scheme, or
 - (ii) persons who have themselves made such claims, with such modifications as may be prescribed.

(7) If no regulations under this Article are in operation on 6th April 2000, then until such time as any such regulations come into operation—

- (a) any provisions of Part II of the Contributions and Benefits Act which (whether alone or together with other provisions) would otherwise result in a reduction of one-half in the amount payable by way of additional pension in cases where a person's spouse dies after 5th April 2000 shall be taken—
 - (i) as not applying, or
 - (ii) as providing for the full amount to be payable by way of additional pension, as the case may require; and
- (b) in Schedule 5 to that Act—
 - (i) any provision which is expressed to apply in relation to deaths occurring after that date shall not apply, and
 - (ii) any provision which (with or without any other limitation) is expressed to apply in relation to deaths occurring before 6th April 2000 shall be taken as applying also in relation to deaths occurring on or after that date.

(8) Regulations made under this Article shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new 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 regulations have been approved by a resolution of the Assembly.

(9) In this Article “prescribed” means prescribed by regulations under paragraph (2), (3) or (4), as the case may be.

State maternity allowance

Extension of entitlement to state maternity allowance

50.—(1) In section 35 of the Contributions and Benefits Act (state maternity allowance), for subsections (1) and (1A) there shall be substituted—

“(1) A woman shall be entitled to a maternity allowance, at the appropriate weekly rate determined under section 35A below, if—

- (a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and
- (b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement; and
- (c) (within the meaning of section 35A) her average weekly earnings are not less than the maternity allowance threshold; and
- (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.”.

(2) In subsection (3) of that section—

- (a) in paragraph (b), for “Schedule 3, Part I, paragraph 3” there shall be substituted “section 35A below”; and
- (b) in paragraph (c), for “and (c) above” there shall be substituted “above or in section 35A(2) or (3) below”.

(3) After that section there shall be inserted—

“Appropriate weekly rate of maternity allowance.

35A.—(1) For the purposes of section 35(1) above the appropriate weekly rate is that specified in whichever of subsection (2) or (3) below applies.

(2) Where the woman’s average weekly earnings are not less than the lower earnings limit for the relevant tax year, the appropriate weekly rate is a weekly rate equal to the lower rate of statutory maternity pay for the time being prescribed under section 162(3) below.

(3) Where the woman’s average weekly earnings—

- (a) are less than the lower earnings limit for the relevant tax year, but
- (b) are not less than the maternity allowance threshold for that tax year,

the appropriate weekly rate is a weekly rate equivalent to 90 per cent. of her average weekly earnings or (if lower) the rate specified in subsection (2) above.

(4) For the purposes of this section a woman's

“average weekly earnings” shall be taken to be the average weekly amount (as determined in accordance with regulations) of specified payments which—

- (a) were made to her or for her benefit as an employed earner, or
- (b) are (in accordance with regulations) to be treated as made to her or for her benefit as a self-employed earner,

during the specified period.

(5) Regulations may, for the purposes of subsection (4) above, provide—

- (a) for the amount of any payments falling within paragraph (a) or (b) of that subsection to be calculated or estimated in such manner and on such basis as may be prescribed;
- (b) for a payment made outside the specified period to be treated as made during that period where it was referable to that period or any part of it;
- (c) for a woman engaged in employment as a self-employed earner to be treated as having received a payment in respect of a week—
 - (i) equal to the lower earnings limit in force on the last day of the week, if she paid a Class 2 contribution in respect of the week, or
 - (ii) equal to the maternity allowance threshold in force on that day, if she was excepted (under section 11(4) above) from liability for such a contribution in respect of the week;

(d) for aggregating payments made or treated as made to or for the benefit of a woman where, either in the same week or in different weeks, she was engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner).

(6) In this section—

- (a) “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (7) below) £30;
- (b) “the relevant tax year” means the tax year in which the beginning of the period of 66 weeks mentioned in section 35(1)(b) above falls; and
- (c) “specified” means prescribed by or determined in accordance with regulations.

(7) Whenever the Secretary of State makes an order under section 35A of the Great Britain Contributions and Benefits Act (increase of maternity allowance threshold), the Department may make a corresponding order for Northern Ireland.”.

(4) This Article applies in relation to the payment of maternity allowance in cases where a woman’s expected week of confinement (within the meaning of section 35 of the Contributions and Benefits Act) begins on or after 20th August 2000.

Benefits for widows and widowers

Bereavement payments

51.—(1) For section 36 of the Contributions and Benefits Act there shall be substituted—

“36 Bereavement payment.

(1) A person whose spouse dies on or after the appointed day shall be entitled to a bereavement payment if—

- (a) either that person was under pensionable age at the time when the spouse died or the spouse was then not entitled to a Category A retirement pension under section 44 below; and
- (b) the spouse satisfied the contribution condition for a bereavement payment specified in Schedule 3, Part I, paragraph 4.

(2) A bereavement payment shall not be payable to a person if that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse’s death.

(3) In this section “the appointed day” means the day appointed for the coming into operation of Articles 51 to 53 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.”.

(2) In Schedule 4 to the Contributions and Benefits Act (rates of benefits etc.), for Part II there shall be substituted—

“PART II

BEREAVEMENT PAYMENT

Bereavement payment.	£2,000.00”.
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New allowances for bereaved spouses

52.—(1) After section 36 of the Contributions and Benefits Act there shall be inserted—

“Cases in which sections 37 to 41 apply.

36A.—(1) Sections 37 to 39 and section 40 below apply only in cases where a woman’s husband has died before the appointed day, and section 41 below applies only in cases where a man’s wife has died before that day.

(2) Sections 39A to 39C below apply in cases where a person’s spouse dies on or after the appointed day, but section 39A also applies (in accordance with subsection (1)(b) of that section) in cases where a man’s wife has died before that day.

(3) In this section, and in sections 39A and 39B below, “the appointed day” means the day appointed for the coming into operation of Articles 51 to 53 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.”.

(2) After section 39 of the Contributions and Benefits Act there shall be inserted—

“Widowed parent’s allowance.

39A.—(1) This section applies where—

- (a) a person whose spouse dies on or after the appointed day is under pensionable age at the time of the spouse’s death, or
- (b) a man whose wife died before the appointed day—
 - (i) has not remarried before that day, and
 - (ii) is under pensionable age on that day.

(2) The surviving spouse shall be entitled to a widowed parent’s allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a widowed parent’s allowance specified in Schedule 3, Part I, paragraph 5 and—

- (a) the surviving spouse is entitled to child benefit in respect of a child falling within subsection (3) below; or
- (b) the surviving spouse is a woman who either—
 - (i) is pregnant by her late husband, or
 - (ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above.

(3) A child falls within this subsection if one of the conditions specified in section 81(2) below is for the time being satisfied with respect to the child and the child is either—

- (a) a son or daughter of the surviving spouse and the deceased spouse; or
- (b) a child in respect of whom the deceased spouse was immediately before his or her death entitled to child benefit; or
- (c) if the surviving spouse and the deceased spouse were residing together immediately before his or her death, a child in respect of whom the surviving spouse was then entitled to child benefit.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—

- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
- (b) is under pensionable age.

(5) A widowed parent’s allowance shall not be payable—

- (a) for any period falling before the day on which the surviving spouse’s entitlement is to be regarded as commencing by virtue of section 5(1)(l) of the Administration Act; or
- (b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

Bereavement allowance where no dependent children.

39B.—(1) This section applies where a person whose spouse dies on or after the appointed day is over the age of 45 but under pensionable age at the spouse’s death.

(2) The surviving spouse shall be entitled to a bereavement allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a bereavement allowance specified in Schedule 3, Part I, paragraph 5.

(3) A bereavement allowance shall be payable for not more than 52 weeks beginning with the date of the spouse's death or (if later) the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(l) of the Administration Act.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it until—

- (a) she or he attains pensionable age, or
- (b) the period of 52 weeks mentioned in subsection (3) above expires,

whichever happens first.

(5) The allowance shall not be payable—

- (a) for any period for which the surviving spouse is entitled to a widowed parent's allowance; or
- (b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

Rate of widowed parent's allowance and bereavement allowance.

39C.—(1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of sections 44 to 45A below as they apply in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) below.

(2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.

(3) In the application of sections 44 to 45A or (as the case may be) section 44 below by virtue of subsection (1) or (2) above—

- (a) where the deceased spouse was over pensionable age at his or her death, references in those sections to the pensioner shall be taken as references to the deceased spouse, and
- (b) where the deceased spouse was under pensionable age at his or her death, references in those sections to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse and the tax year in which he or she died.

(4) Where a widowed parent's allowance is payable to a person whose spouse dies after 5th April 2000, the additional pension falling to be calculated under sections 44 to 45A below by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.

(5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's death, the weekly rate of the allowance shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year)."

Entitlement to Category B retirement pension by reference to new allowances

53. After section 48B of the Contributions and Benefits Act there shall be inserted—

“Category B retirement pension: entitlement by reference to benefits under section 39A or 39B.

48BB.—(1) Subsection (2) below applies where a person (“the pensioner”) who has attained pensionable age—

- (a) was, immediately before attaining that age, entitled to a widowed parent’s allowance in consequence of the death of his or her spouse; and
- (b) has not remarried.

(2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse, which shall be payable at the same weekly rate as the widowed parent’s allowance.

(3) Subsections (4) to (10) below apply where a person (“the pensioner”) who has attained pensionable age—

- (a) was in consequence of the death of his or her spouse either—
 - (i) entitled to a bereavement allowance at any time prior to attaining that age, or
 - (ii) entitled to a widowed parent’s allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and
- (b) has not remarried.

(4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse.

(5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to 45A above as they apply in relation to a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) above.

(6) Where the spouse died under pensionable age, references in the provisions of sections 44 to 45A above, as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse died.

(7) Where the spouse dies after 5th April 2000, the pension payable by virtue of subsection (4) above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.

(8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—

- (a) by the number of years by which the pensioner’s age at that time was less than 55 (any fraction of a year being counted as a year), or
 - (b) by ten, if that number exceeds ten.
- (9) In subsection (8) above “the relevant time” means—
- (a) where the pensioner became entitled to a widowed parent’s allowance in consequence of the death of the spouse, the time when the pensioner’s entitlement to that allowance ended; and
 - (b) otherwise, the time of the spouse’s death.

(10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse’s death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period

by virtue of any orders under section 132 of the Administration Act (annual up-rating of benefits).”.

Work-focused interviews

Claim or full entitlement to certain benefits conditional on work-focused interview

54. After section 2 of the Administration Act there shall be inserted—

“Work-focused interviews

Claim or full entitlement to certain benefits conditional on work-focused interview.

- 2A.—**(1) Regulations may make provision for or in connection with—
- (a) imposing, as a condition falling to be satisfied by a person who—
 - (i) makes a claim for a benefit to which this section applies, and
 - (ii) is under the age of 60 at the time of making the claim,a requirement to take part in a work-focused interview;
 - (b) imposing, at a time when—
 - (i) a person is under that age and entitled to such a benefit, and
 - (ii) any prescribed circumstances exist,a requirement to take part in such an interview as a condition of that person continuing to be entitled to the full amount which is payable to him in respect of the benefit apart from the regulations.
- (2) The benefits to which this section applies are—
- (a) income support;
 - (b) housing benefit;
 - (c) widow’s and bereavement benefits falling within section 20(1)(e) and (ea) of the Contributions and Benefits Act (other than a bereavement payment);
 - (d) incapacity benefit;
 - (e) severe disablement allowance; and
 - (f) invalid care allowance.
- (3) Regulations under this section may, in particular, make provision—
- (a) for securing, where a person would otherwise be required to take part in interviews relating to two or more benefits—
 - (i) that he is only required to take part in one interview, and
 - (ii) that any such interview is capable of counting for the purposes of all those benefits;
 - (b) for determining the persons by whom interviews are to be conducted;
 - (c) conferring power on such persons or the designated authority to determine when and where interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
 - (d) prescribing the circumstances in which persons attending interviews are to be regarded as having or not having taken part in them;

- (e) for securing that the appropriate consequences mentioned in subsection (4)(a) or (b) below ensue if a person who has been notified that he is required to take part in an interview—
 - (i) fails to take part in the interview, and
 - (ii) does not show, within the prescribed period, that he had good cause for that failure;
 - (f) prescribing—
 - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with the regulations, or
 - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure.
- (4) For the purposes of subsection (3)(e) above the appropriate consequences of a failure falling within that provision are—
- (a) where the requirement to take part in an interview applied by virtue of subsection (1)(a) above, that as regards any relevant benefit either—
 - (i) the person in question is to be regarded as not having made a claim for the benefit, or
 - (ii) if (in the case of an interview postponed in accordance with subsection (7) below) that person has already been awarded the benefit, his entitlement to the benefit is to terminate immediately;
 - (b) where the requirement to take part in an interview applied by virtue of subsection (1)(b) above, that the amount payable to the person in question in respect of any relevant benefit is to be reduced by the specified amount until the specified time.
- (5) Regulations under this section may, in relation to any such reduction, provide—
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
 - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
 - (c) where the person in question is entitled to two or more relevant benefits, for determining the extent, and the order, in which those benefits are to be reduced in order to give effect to the reduction required in his case.
- (6) Regulations under this section may provide that any requirement to take part in an interview that would otherwise apply to a person by virtue of such regulations—
- (a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is specified;
 - (b) is not to apply if the designated authority determines that an interview—
 - (i) would not be of assistance to that person, or
 - (ii) would not be appropriate in the circumstances;
 - (c) is not to apply until such time as the designated authority determines, if that authority determines that an interview—
 - (i) would not be of assistance to that person, or
 - (ii) would not be appropriate in the circumstances,
 until that time;

and the regulations may make provision for treating a person in relation to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

(7) Where—

- (a) a person is required to take part in an interview by virtue of subsection (1)(a) above, and
- (b) the interview is postponed by or under regulations made in pursuance of subsection (6)(a) or (c) above,

the time to which it is so postponed may be a time falling after an award of the relevant benefit to that person.

(8) In this section—

“the designated authority” means such of the following as may be specified—

- (a) a Northern Ireland department;
- (b) a person providing services to a Northern Ireland department;
- (c) any other body established by or under a statutory provision;
- (d) a person providing services to, or authorised to exercise any function of, any such body;

“interview” (in subsections (3) to (7) above) means a work-focused interview;

“relevant benefit”, in relation to any person required to take part in a work-focused interview, means any benefit in respect to which that requirement applied by virtue of subsection (1)(a) or (b) above;

“specified” means prescribed by or determined in accordance with regulations;

“work-focused interview”, in relation to a person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be specified;

and the purposes which may be so specified include purposes connected with a person’s existing or future employment or training prospects or needs, and (in particular) assisting or encouraging a person to enhance his employment prospects.

Supplementary provisions relating to work-focused interviews.

2B.—(1) Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) shall have effect in relation to relevant decisions subject to and in accordance with subsections (3) to (8) below (and in those subsections “the 1998 Order” means that Order).

(2) For the purposes of this section a “relevant decision” is a decision made under regulations under section 2A above that a person—

- (a) has failed to comply with a requirement to take part in an interview which applied to him by virtue of the regulations, or
- (b) has not shown, within the prescribed period mentioned in section 2A(3)(e)(ii) above, that he had good cause for such a failure.

(3) Article 9(1)(c) of the 1998 Order (decisions falling to be made under certain statutory provisions are to be made by the Department) shall have effect subject to any provisions of regulations under section 2A above by virtue of which relevant decisions fall to be made otherwise than by the Department.

(4) For the purposes of each of Articles 10 and 11 of the 1998 Order (revision and supersession of decisions of Department) any relevant decision made otherwise than by the Department shall be treated as if it were such a decision made by the Department (and accordingly may be revised by it under Article 10 or superseded by a decision made by it under Article 11).

(5) Subject to any provisions of regulations under either Article 10 or 11 of the 1998 Order, any relevant decision made, or (by virtue of subsection (4) above) treated as made, by the Department may be—

(a) revised under Article 10 by a person or authority exercising functions under regulations under section 2A above other than the Department, or

(b) superseded under Article 11 by a decision made by such a person or authority, as if that person or authority were the Department.

(6) Regulations shall make provision for conferring (except in any prescribed circumstances) a right of appeal under Article 13 of the 1998 Order (appeal to appeal tribunal) against—

(a) any relevant decision, and

(b) any decision under Article 11 of that Order superseding any such decision, whether made by the Department or otherwise.

(7) Subsections (4) to (6) above apply whether—

(a) the relevant decision, or

(b) (in the case of subsection (6)(b)) the decision under Article 11 of the 1998 Order, is as originally made or has been revised (by the Department or otherwise) under Article 10 of that Order; and regulations under subsection (6) above may make provision for treating, for the purposes of Article 13 of that Order, any decision made or revised otherwise than by the Department as if it were a decision made or revised by it.

(8) Article 13 of the 1998 Order shall not apply to any decision falling within subsection (6) above except in accordance with regulations under that subsection.

(9) In the following provisions, namely—

(a) section 3(1) of the Social Security Act 1998 (use of information), and

(b) Article 69(6) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (supply of information),

any reference to information relating to social security includes any information supplied by a person for the purposes of an interview which he is required to take part in by virtue of section 2A above.

(10) In this section “interview” means a work-focused interview within the meaning of section 2A above.”

Optional work-focused interviews

55. After section 2B of the Administration Act (inserted by Article 54) there shall be inserted—

“Optional work-focused interviews.

2C.—(1) Regulations may make provision for conferring on the prescribed authorities functions in connection with conducting work-focused interviews in cases where such interviews are requested or consented to by persons to whom this section applies.

(2) This section applies to persons making claims for or entitled to—

- (a) any of the benefits listed in section 2A(2) above, or
- (b) any prescribed benefit;

and it so applies regardless of whether such persons have, in accordance with regulations under section 2A above, already taken part in interviews conducted under such regulations.

(3) The functions which may be conferred on the prescribed authorities by regulations under this section include functions relating to—

- (a) the obtaining and receiving of information for the purposes of work-focused interviews conducted under the regulations;
- (b) the recording and forwarding of information supplied at, or for the purposes of, such interviews;
- (c) the taking of steps to identify potential employment or training opportunities for persons taking part in such interviews.

(4) Regulations under this section may make different provision for different areas.

(5) In this section—

“authorities” means a Northern Ireland department and any other body established by or under a statutory provision;

“work-focused interview”, in relation to a person to whom this section applies, means an interview conducted for such purposes connected with employment or training in the case of such a person as may be prescribed; and the purposes which may be so prescribed include—

- (a) purposes connected with the existing or future employment or training prospects or needs of such a person, and
- (b) (in particular) assisting or encouraging such a person to enhance his employment prospects.”.

Jobseeker’s allowance

Couples to make joint claim for allowance

56. Schedule 7 (which makes provision in connection with requiring certain couples to make joint claims for an income-based jobseeker’s allowance) shall have effect.

Special schemes for claimants for jobseeker’s allowance

57.—(1) The Department may by regulations make provision for or in connection with the participation of claimants for a jobseeker’s allowance in schemes of any prescribed description, being schemes established for designated areas in Northern Ireland (or for the whole of Northern Ireland) and designed to assist such persons to obtain sustainable employment.

(2) Regulations under this Article may, in particular, make provision—

- (a) for the imposition during any prescribed period, as additional conditions for entitlement to a jobseeker’s allowance applying in the case of persons participating in schemes, of requirements to take steps determined in accordance with the regulations with a view to improving those persons' prospects of securing employment;
- (b) for the suspension, during any prescribed period, of any prescribed conditions that would otherwise apply to such persons.

(3) Regulations under this Article may make provision for any provisions of the Jobseekers (Northern Ireland) Order 1995 to apply for the purposes of the regulations subject to prescribed modifications.

(4) The provisions of that Order which may be so applied include in particular any provisions of—

- (a) Article 21 or 22A (circumstances in which jobseeker’s allowance is not payable); or
- (b) Article 22 or 22B (exemptions from Article 21 or 22A).

(5) The Department or the Department of Economic Development may for the purposes of, or in connection with, any scheme—

- (a) make such arrangements (whether or not with other persons) for the provision of any facilities,
- (b) provide such support (by whatever means) for arrangements made by other persons for the provision of any facilities,
- (c) make such payments—
 - (i) by way of fees, grants, loans or otherwise, to persons undertaking the provision of facilities under arrangements within sub-paragraph (a) or (b),
 - (ii) by way of grants, loans or otherwise, to persons participating in the scheme, or
 - (iii) in respect of any incidental expenses,
 as that Department considers appropriate.

(6) In paragraph (5) “facilities” includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(7) The power of the Department of Economic Development to make an order under Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (status of trainees) shall include power to make, in relation to—

- (a) persons participating in any scheme, and
- (b) payments received by them by virtue of paragraph (5), provision corresponding to any provision which (by virtue of that Article) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in paragraph (1) of that Article.

(8) In this Article—

“designated” means designated by the Department;

“employment” has the meaning given by regulations under this Article;

“prescribed” means specified in or determined in accordance with regulations under this Article;

“scheme” means a scheme such as is mentioned in paragraph (1).

Incapacity for work

Incapacity for work: personal capability assessments

58. For section 167C of the Contributions and Benefits Act there shall be substituted—

“167C Personal capability assessments.

(1) Where the own occupation test is not applicable, or has ceased to apply, in the case of a person, the question whether the person is capable or incapable of work shall be determined in accordance with a personal capability assessment.

- (2) Provision shall be made by regulations—
- (a) defining a personal capability assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
 - (b) as to the manner of assessing whether a person is, in accordance with a personal capability assessment, incapable of work.
- (3) Regulations may provide that, in any prescribed circumstances, a person to whom subsection (1) above applies shall, if the prescribed conditions are met, be treated as incapable of work in accordance with a personal capability assessment until such time as—
- (a) such an assessment has been carried out in his case, or
 - (b) he falls to be treated as capable of work in accordance with regulations under section 167A(2) or (3) above or section 167E below.
- The prescribed conditions may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question is or is to be treated as capable of work.
- (4) Except in prescribed circumstances, a personal capability assessment carried out in the case of a person before the time when subsection (1) above applies to him shall be as effective for the purposes of that subsection as one carried out thereafter.
- (5) The Department may, in the case of a person who for any purpose of this Act has been determined to be incapable of work in accordance with a personal capability assessment (including one carried out by virtue of this subsection), require the question whether the person is capable or incapable of work to be determined afresh in accordance with a further personal capability assessment.”.

Incapacity benefits

Incapacity benefit: restriction to recent contributors

59.—(1) Paragraph 2 of Schedule 3 to the Contributions and Benefits Act (contribution conditions for short-term incapacity benefit) shall be amended as follows.

- (2) In sub-paragraph (2) (the first condition), for paragraph (a) there shall be substituted—
- “(a) the claimant must have actually paid contributions of a relevant class in respect of one of the last three complete years before the beginning of the relevant benefit year, and those contributions must have been paid before the relevant time; and”.
- (3) In sub-paragraph (7) (claim by person who does not satisfy second contribution condition to be disregarded in relation to subsequent claim), after “does not satisfy” there shall be inserted
- “the first contribution condition (specified in sub-paragraph (2) above) or, as the case may be,”.
- (4) After sub-paragraph (7) there shall be added—
- “(8) Regulations may—
 - (a) provide for the first contribution condition (specified in sub-paragraph (2) above) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;
 - (b) with a view to securing any relaxation of the requirements of that condition (as so specified) in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.
- (9) In sub-paragraph (8)—

“benefit” includes (in addition to any benefit under Parts II to V of this Act)—

- (a) any benefit under Parts VII to XII of this Act, and
- (b) credits under regulations under section 22(5) above;

“modifications” includes additions, omissions and amendments.”.

Incapacity benefit: reduction for pension payments

60. After section 30D of the Contributions and Benefits Act there shall be inserted—

“Incapacity benefit: reduction for pension payments.

30DD.—(1) Where—

- (a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,
- (b) a pension payment is payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and
- (c) the amount of that payment (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments in respect of that period) exceeds the threshold,

the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess.

(2) In subsection (1) above “the threshold” means—

- (a) if the period in question is a week, £85 or such greater amount as may be prescribed; or
- (b) if that period is not a week, such proportion of the amount mentioned in paragraph (a) as falls to be calculated in accordance with regulations on such basis as may be prescribed.

(3) Regulations may secure that a person of any prescribed description does not suffer any reduction under subsection (1) above in any amount of incapacity benefit to which he is entitled.

(4) Regulations may provide—

- (a) for sums of any specified description to be disregarded for the purposes of this section;
- (b) for sums of any specified description to be treated for those purposes as payable to persons as pension payments (including, in particular sums in relation to which there is a deferred right of receipt);
- (c) for the aggregation of sums of any specified description which are payable as pension payments (or treated as being so payable) in respect of the same or different periods;
- (d) for such sums or aggregate sums to be apportioned between or otherwise allocated to periods in respect of which persons are entitled to incapacity benefit.

(5) In this section “pension payment” means—

- (a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme;
- (b) a payment of any specified description, being a payment made under an insurance policy providing benefits in connection with physical or mental illness, disability, infirmity or defect; or

(c) a payment of any other specified description;
and “specified” means prescribed by or determined in accordance with regulations under this section.

(6) For the purposes of subsection (5) above

“occupational pension scheme”, “personal pension scheme” and “public service pension scheme” each has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993, except that

“personal pension scheme” includes a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuities).”.

Incapacity benefit: persons incapacitated in youth

61.—(1) In subsection (1) of section 30A of the Contributions and Benefits Act (incapacity benefit: entitlement)—

(a) for “either of the following conditions” there shall be substituted—

“(a) either of the conditions mentioned in subsection (2) below; or

(b) if he satisfies neither of those conditions, each of the conditions mentioned in subsection (2A) below;”;

(b) after “any day of incapacity for work” there shall be inserted

“(“the relevant day”)”.

(2) In subsection (2) of that section—

(a) after “conditions” in the first place where that word occurs, there shall be inserted “mentioned in subsection (1)(a) above”; and

(b) in paragraph (a), for “the day in question” there shall be substituted “the relevant day”.

(3) After that subsection there shall be inserted—

“(2A) The conditions mentioned in subsection (1)(b) above are that—

(a) he is aged 16 or over on the relevant day;

(b) he is under the age of 20 or, in prescribed cases, 25 on a day which forms part of the period of incapacity for work;

(c) he was incapable of work throughout a period of 196 consecutive days immediately preceding the relevant day, or an earlier day in the period of incapacity for work on which he was aged 16 or over;

(d) on the relevant day he satisfies the prescribed conditions as to residence in Northern Ireland, or as to presence there; and

(e) he is not, on that day, a person who is receiving full-time education.”.

(4) In subsection (3) of that section, after “benefit” there shall be inserted “under subsection (1)(a) above”.

(5) After subsection (5) of that section there shall be added—

“(6) Regulations may provide that persons who have previously been entitled to incapacity benefit shall, in prescribed circumstances, be entitled to short-term incapacity benefit under subsection (1)(b) above notwithstanding that they do not satisfy the condition set out in paragraph (b) of subsection (2A) above.

(7) Regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time education for the purposes of paragraph (e) of subsection (2A) above.”.

Abolition of severe disablement allowance

62. Sections 68 and 69 of the Contributions and Benefits Act (severe disablement allowance) shall cease to have effect.

Disability benefits

Attendance allowance

63.—(1) After subsection (3) of section 64 of the Contributions and Benefits Act (entitlement to attendance allowance) there shall be added—

“(4) Circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsections (2) and (3) above as may be prescribed.”.

(2) In subsection (1) of section 66 of that Act (attendance allowance for the terminally ill)—

- (a) in paragraph (a)(i), for the words from “for the remainder of his life” to “terminally ill” there shall be substituted “for so much of the period for which he is terminally ill as does not fall before the date of the claim”;
- (b) in paragraph (a)(ii), for “that date”, in the first place where those words occur, there shall be substituted “the date of the claim or, if later, the first date on which he is terminally ill”; and
- (c) in paragraph (b), for “the remainder of the person’s life, beginning with that date” there shall be substituted “so much of the period for which he is terminally ill as does not fall before the date of the claim”.

Disability living allowance

64.—(1) In subsection (3) of section 71 of the Contributions and Benefits Act (disability living allowance), for the words “for life” there shall be substituted “for an indefinite period”.

(2) In subsection (5)(b) of section 72 of that Act (the care component), for the words “for the remainder of his life beginning with that date” there shall be substituted “for so much of the period for which he is terminally ill as does not fall before the date of the claim”.

(3) In subsection (1) of section 73 of that Act (the mobility component), for the words “the age of 5” there shall be substituted

“the relevant age” and after that subsection there shall be inserted—

“(1A) In subsection (1) above “the relevant age” means—

- (a) in relation to the conditions mentioned in paragraph (a),
- (b) or (c) of that subsection, the age of 3;
- (b) in relation to the conditions mentioned in paragraph (d) of that subsection, the age of 5.”.

(4) Paragraph (3) does not affect awards made before the day on which that paragraph comes into operation.

Miscellaneous

Certain overpayments of benefit not to be recoverable

65.—(1) An overpayment to which this Article applies shall not be recoverable from the payee under any provision made by or under Part III of the Administration Act (overpayments and adjustments of benefit).

(2) This Article applies to an overpayment if—

- (a) it is in respect of a qualifying benefit;
- (b) it is referable to a decision given on a review that there has been an alteration in the relevant person’s condition, being a decision to which effect is required to be given as from a date earlier than that on which it was given;
- (c) the decision was given before 1st June 1999; and
- (d) the overpayment is not excluded by virtue of paragraph (6).

(3) In paragraph (2)(b) the reference to a decision on a review that there has been an alteration in the relevant person’s condition is a reference to a decision so given that that person’s physical or mental condition either was at the time when the original decision was given, or has subsequently become, different from that on which that decision was based, with the result—

- (a) that he did not at that time, or (as the case may be) has subsequently ceased to, meet any of the conditions contained in the following provisions of the Contributions and Benefits Act, namely—
 - (i) section 64 (attendance allowance),
 - (ii) section 72(1) or (2) (care component of disability living allowance), and
 - (iii) section 73(1) or (2) (mobility component of that allowance); or
- (b) that he was at that time, or (as the case may be) has subsequently become, capable of work in accordance with regulations made under section 167C(2) of that Act (the all work test).

(4) For the purposes of this Article “qualifying benefit” means—

- (a) attendance allowance;
- (b) disability living allowance;
- (c) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of a component (at any rate) of disability living allowance or in receipt of attendance allowance;
- (d) incapacity benefit;
- (e) any benefit (other than incapacity benefit) awarded wholly or partly by reason of a person being (or being treated as being) incapable of work; or
- (f) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of any benefit falling within sub-paragraph (c), (d) or (e).

(5) For the purposes of this Article—

- (a) “review” means a review taking place by virtue of section 23(1)(a) or (b), 28(2)(a) or (b) or 33(1)(a) or (b) of the Administration Act;
- (b) “the relevant person”, in relation to a review, means the person to whose entitlement to a qualifying benefit or to whose incapacity for work the review related; and
- (c) “the original decision”, in relation to a review, means the decision as to any such entitlement or incapacity to which the review related.

(6) An overpayment is excluded by virtue of this paragraph if (before or after the making of this Order)—

- (a) the payee has agreed to pay a penalty in respect of the overpayment under section 109A of the Administration Act,
- (b) the payee has been convicted of any offence (under section 105A or 106(1) or (1A) of that Act or otherwise) in connection with the overpayment, or
- (c) proceedings have been instituted against the payee for such an offence and the proceedings have not been determined or abandoned.

(7) Nothing in this Article applies to an overpayment to the extent that it was recovered from the payee (by any means) before 26th February 1999.

(8) In this Article—

“benefit” includes any amount included in—

- (a) the applicable amount in relation to an income-related benefit (as defined by section 131(1) of the Contributions and Benefits Act), or
- (b) the applicable amount in relation to a jobseeker’s allowance (as defined by Article 6(5) of the Jobseekers (Northern Ireland) Order 1995);

“income-related benefit” has the meaning given by section 122(1) of the Contributions and Benefits Act;

“overpayment” means an amount of benefit paid in excess of entitlement;

“the payee”, in relation to an overpayment, means the person to whom that amount was paid.

Child benefit: claimant to state national insurance number

66. In section 11 of the Administration Act (entitlement to child benefit dependent on claim), after subsection (1) there shall be inserted—

“(1A) No person shall be entitled to child benefit unless subsection (1B) below is satisfied in relation to him.

(1B) This subsection is satisfied in relation to a person if—

- (a) his claim for child benefit is accompanied by—
 - (i) a statement of his national insurance number and information or evidence establishing that that number has been allocated to him; or
 - (ii) information or evidence enabling the national insurance number that has been allocated to him to be ascertained; or
- (b) he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

(1C) Regulations may make provision disapplying subsection (1A) above in the case of—

- (a) prescribed descriptions of persons making claims, or
- (b) prescribed descriptions of children in respect of whom child benefit is claimed, or in other prescribed circumstances.”.

Welfare benefits: miscellaneous amendments

67. Schedule 8 (which makes minor and consequential amendments of provisions relating to welfare benefits) shall have effect.

Supplementary

Sharing of functions as regards claims and information

68. After section 5 of the Administration Act there shall be inserted—

“Sharing of functions as regards certain claims and information

Sharing of functions as regards certain claims and information.

5A.—(1) Regulations may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits may be made, make provision as regards any relevant benefit, for claims for that benefit to be made to any relevant authority (if such claims could not otherwise be made to that authority).

(2) Regulations may make provision for or in connection with—

(a) the forwarding by a relevant authority of—

(i) claims received by virtue of any provision authorised by subsection (1) above, and

(ii) information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons);

(b) the receiving and forwarding by a relevant authority of information or evidence relating to social security matters supplied by, or the obtaining by a relevant authority of such information or evidence from—

(i) persons making, or who have made, claims for a relevant benefit, or

(ii) other persons in connection with such claims,

including information or evidence not relating to the claims or benefit in question;

(c) the recording by a relevant authority of information or evidence relating to social security matters supplied to, or obtained by, the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded);

(d) the giving of information or advice with respect to social security matters by a relevant authority to persons making, or who have made, claims for a relevant benefit.

(3) In paragraphs (b) and (d) of subsection (2) above—

(a) references to claims for a relevant benefit are to such claims whether made as mentioned in subsection (1) above or not; and

(b) references to persons who have made such claims include persons to whom awards of benefit have been made on the claims.

(4) Regulations under this section may make different provision for different areas.

(5) Regulations under any other statutory provision may make such different provision for different areas as appears to the Department expedient in connection with any exercise by regulations under this section of the power conferred by subsection (4) above.

(6) In this section—

(a) “benefit” includes child support (any reference to a claim being read, in relation to child support, as a reference to an application under the Child Support (Northern Ireland) Order 1991 for a maintenance assessment);

(b) “relevant authority” means—

- (i) a Northern Ireland department,
- (ii) a person providing services to a Northern Ireland department,
- (iii) any other body established by or under a statutory provision, or
- (iv) a person providing services to, or authorised to exercise any function of, such a body;
- (c) “relevant benefit” means housing benefit or any other benefit prescribed for the purposes of this section;
- (d) “social security matters” means matters relating to social security, child support or war pensions and in this paragraph “war pension” means a war pension within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).”.

Supply of information for certain purposes

69.—(1) The Department may by regulations make such provision for or in connection with any of the following matters, namely—

- (a) the use by a person within paragraph (2) of social security information held by that person,
- (b) the supply (whether to a person within paragraph (2) or otherwise) of social security information held by a person within that paragraph,
- (c) the relevant purposes for which a person to whom such information is supplied under the regulations may use it, and
- (d) the circumstances and extent (if any) in and to which a person to whom such information is supplied under the regulations may supply it to any other person (whether within paragraph (2) or not),

as the Department considers appropriate in connection with any provision to which paragraph (3) applies or in connection with any scheme or arrangements to which paragraph (4) applies.

(2) The persons within this paragraph are—

- (a) a Northern Ireland department;
- (b) a person providing services to, or designated for the purposes of this Article by an order of, a Northern Ireland department;
- (c) any other body established by or under a statutory provision; and
- (d) a person providing services to, or authorised to exercise any function of, such a body.

(3) This paragraph applies to any provision made by or under—

- (a) any of the sections of the Administration Act inserted by Article 54, 55 or 68,
- (b) Article 57, or
- (c) the Jobseekers (Northern Ireland) Order 1995.

(4) This paragraph applies to—

- (a) any scheme designated by regulations under paragraph (1), being a scheme operated by a Northern Ireland department (whether under arrangements with any other person or not) for any purposes connected with employment or training in the case of persons of a particular category or description;
- (b) any arrangements of a description specified in such regulations, being arrangements made by a Northern Ireland department for any such purposes.

(5) Regulations under paragraph (1) may, in particular, authorise information supplied to a person under the regulations—

- (a) to be used for the purpose of amending or supplementing other information held by that person; and
- (b) if it is so used, to be supplied to any other person, and used for any purpose, to whom or for which that other information could be supplied or used.

(6) In this Article—

“relevant purposes” means purposes connected with—

- (a) social security or child support, or
- (b) employment or training;

“social security information” means information relating to social security, child support or war pensions and in this paragraph “war pensions” means war pensions within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).

(7) Any reference in this Article to purposes connected with employment or training includes purposes connected with the existing or future employment or training prospects or needs of persons, and (in particular) assisting or encouraging persons to enhance their employment prospects.