



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART XV

#### GENERAL

##### *Subordinate legislation*

#### **165 Regulations and orders - general.**

- (1) Subject to subsection (2) below and to [<sup>F1</sup>any provision providing for an order or regulations to be made by [<sup>F2</sup>the Secretary of State,] the Treasury or the Inland Revenue and to]any specific provision of this Act, regulations and orders under this Act shall be made by the Department.
- (2) Regulations with respect to proceedings before the Commissioners (whether for the determination of any matter or for leave to appeal to or from the Commissioners) shall be made by the Lord Chancellor.
- (3) Any power conferred by this Act [<sup>F3</sup>on the Department [<sup>F4</sup>, the Secretary of State] or the Lord Chancellor] to make regulations or orders is exercisable by statutory rule for the purposes of the <sup>M1</sup>Statutory Rules (Northern Ireland) Order 1979.
- (4) Except in the case of regulations under section 22 or 152 above and in so far as this Act otherwise provides, any power conferred by this Act to make regulations or an order may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

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- (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
- (iii) any such provision either unconditionally or subject to any specified condition;

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (5) Without prejudice to any specific provision of this Act, any power conferred by this Act to make regulations or an order (other than the power conferred by section 22), includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.

[<sup>F5</sup>(5A) The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001.

(5B) For the purposes of subsection (5A), references in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001 to an order under section 1 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.]

- (6) Without prejudice to any specific provision of this Act, a power conferred by any provision of this Act, except sections 12, [<sup>F6</sup>24,] 122 and 152, to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.

- (7) Any power conferred by Part VIII of this Act to make regulations relating to housing benefit shall include power to make different provision for different areas.

[<sup>F7</sup>(7A) Without prejudice to the generality of any of the preceding provisions of this section, regulations under any of sections 2A to [<sup>F8</sup>2F] and 5A above may provide for all or any of the provisions of the regulations to apply only in relation to any area or areas specified in the regulations.]

- (8) Regulations under Part VIII of this Act relating to housing benefit administered by the Department of the Environment under section 126(3)(b) above shall not be made without the consent of that Department.

- (9) Any power to make—
  - <sup>F9</sup>(a) . . . . .
  - (b) regulations under section <sup>F10</sup>. . . 152(5)(c) above;
  - (c) an order under section [<sup>F11</sup>145(4)(a)] or 148(2) above,
 shall be exercisable with the consent of the Department of Finance and Personnel.

- (10) Any power of the Department under any provision of this Act, except sections 76, 134, [<sup>F12</sup>and 152], to make any regulations or an order, where the power is not expressed to

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be exercisable with the consent of the Department of Finance and Personnel, shall if that Department so directs be exercisable only in conjunction with it.

- (11) A power under [<sup>F13</sup>section 155] above to make regulations, or to make provision by an order, for modifications or adaptations of the Contributions and Benefits Act or this Act shall be exercisable in relation to any enactment passed or made after this Act which is directed to be construed as one with them, except in so far as any such enactment relates to a benefit in relation to which the power is not exercisable; but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.
- [<sup>F14</sup>(11A) Any power of the Treasury or the Inland Revenue under this Act to make regulations or orders is exercisable by statutory instrument; and subsections (4) to (6) above apply to those regulations or orders as they apply to regulations or orders made by the Department.]
- (12) Any reference in this section or section 166 below to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed or made after this Act which is directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.

#### Textual Amendments

- F1** Words in s. 165(1) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 49(2)** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F2** Words in s. 165(1) inserted (13.5.2014) by **National Insurance Contributions Act 2014 (c. 7)**, s. **18(5)(7)**
- F3** Words in s. 165(3) inserted (26.2.2003 for specified purposes, 1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by **Tax Credits Act 2002 (c. 21)**, s. 61, **Sch. 4 para. 10**; S.I. 2003/392, art. 2 (subject to savings in art. 3)
- F4** Words in s. 165(3) inserted (13.5.2014) by **National Insurance Contributions Act 2014 (c. 7)**, s. **18(6)(7)**
- F5** S. 165(5A)(5B) inserted (2.5.2016) by **The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006)**, arts. 2(2), **108(1)**; S.R. 2016/215, art. 2(6)(a)
- F6** Words in s. 165(6) ceased to have effect (6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise *prosp.*) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 86**; S.R. 1999/371, art. 2(b), **Sch. 1** (with arts. 4, 18); S.R. 1999/407, art. 2(b), **Sch. 1** (with art. 4); S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16) and S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of the said S.R. 1999/472); and those same words repealed (29.11.1999 for certain purposes, otherwise *prosp.*) by the said S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(2), **Sch. 7**; S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of that S.R.)
- F7** S. 165(7A) inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4)(f), 74, **Sch. 9 para. 58** (with art. 75)
- F8** Word in s. 165(7A) substituted (13.8.2010) by **Welfare Reform Act (Northern Ireland) 2010 (c. 13)**, ss. **2(4)**, **36(1)(a)**
- F9** S. 165(9)(a) repealed (6.10.1997) by S.I. 1997/1183 (N.I. 12), art. **31(1)(2)**, Sch. 3, para. 9(1)(a), Sch. 4; S.R. 1997/400, art. **2**
- F10** Words in s. 165(9)(b) repealed (6.10.1997) by S.I. 1997/1183, art. 31(1)(2), Sch. 3, para. 9(b), **Sch. 4**; S.R. 1997/400, art. **2(2)**
- F11** Words in s. 165(9)(c) substituted (*retrospective* to 1.4.1999) by 1999 c. 30, ss. 81, 89(4)(d), **Sch. 11 para. 19** (the amendment being in place of that made by S.I. 1999/671, **Sch. 3 para. 49(3)**)
- F12** Words in s. 165(10) substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 12(a)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

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- F13** Words in s. 165(11) substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 12(b)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**
- F14** S. 165(11A) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 49(4)** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)

**Modifications etc. (not altering text)**

- C1** S. 165 extended (2.12.1999) by 1998 c. 47, s. 87(10) (with s. 95); S.I. 1999/3209, art. 2, **Sch.**
- C2** S. 165(1) modified (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 para. 22**
- C3** S. 165(3) modified (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 para. 31**
- C4** S. 165(4)(5)(6)(10) applied (5.9.1997) by S.I. 1997/1183 (N.I. 12), **art. 28(3)**; S.R. 1997/400, art. 2(1), **Sch. Pt. I**
- C5** S. 165(8): functions transferred (1.12.1999) from the Department of the Environment to the Department of Finance and Personnel by S.R. 1999/481, art. 6(b), **Sch. 4 Pt. II**

**Marginal Citations**

- M1** S.I. 1979/1573 (N.I. 12).

**166 Assembly, etc. control of orders and regulations.**

- (1) The regulations and orders to which this subsection applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations or order, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations or a new order) 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, or the order has, been approved by a resolution of the Assembly.
- (2) Subsection (1) above applies—
- [<sup>F15</sup>(za) to any order made under section 109A(3B);]
- (a) to any regulations made by the Department under section <sup>F16</sup>. . . [<sup>F17</sup>116B(1)(b),] 131 or 134 above; and
- [<sup>F18</sup>(aa) the first regulations to be made under section 2A;] and
- [<sup>F19</sup>(aaa) to the first regulations to be made under section 2AA above;]
- [<sup>F20</sup>(ab) to any order containing provision adding any person to the list of persons falling within section 103B(2A) above;]
- (b) to any order made by the Department under [<sup>F21</sup>section 132 [<sup>F22</sup>, 132A [<sup>F23</sup>132B,]] or 133 above.]
- (3) Subsection (1) above does not apply to regulations which, in so far as they are made under the powers conferred by subsection (2)(a) above, only replace provisions of previous regulations with new provisions to the same effect.
- (4) Subject to subsection (8) below, all regulations and orders made under this Act by the Department, other than regulations or orders to which subsection (1) above applies, shall be subject to negative resolution.
- (5) Subject to subsection (10) [<sup>F24</sup>and (10A)] below, all regulations [<sup>F24</sup>or orders]made under this Act by <sup>F25</sup>... [<sup>F24</sup>the Treasury or the Inland Revenue] shall be subject to annulment in pursuance of a resolution of either House of Parliament<sup>F25</sup>....
- [<sup>F26</sup>(5A) All regulations made under this Act by the Department of Justice shall be subject to negative resolution.]

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- (6) Section 41(3) of the <sup>M2</sup>Interpretation Act (Northern Ireland) 1954 (laying statutory instruments or statutory documents before the Assembly) shall apply in relation to any instrument or document which by virtue of any provision of this Act is required to be laid before the Assembly as if it were a statutory instrument or statutory document within the meaning of that Act.
- (7) This subsection applies to any regulations or order made under this Act which—
- (a) but for subsection (8) below, would be subject to negative resolution, and
  - (b) are or is contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.
- (8) Any regulations or order to which subsection (7) above applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (9) This subsection applies to any regulations or order made under this Act which—
- (a) but for subsection (10) below, would be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) are, or is, contained in an instrument which is subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament.
- (10) Any regulations or order to which subsection (9) above applies shall not be subject as mentioned in paragraph (a) of that subsection, but shall be subject to the procedure described in paragraph (b) of that subsection.
- <sup>F27</sup>(10A) A statutory instrument containing provision under section 129 [<sup>F28</sup>, 132, 133, 134] or 142(7) shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.]
- <sup>F29</sup>(11) . . . . .
- (12) In this section—
- “the confirmatory procedure” means the procedure described in subsection (1) above;
- “subject to negative resolution” has the meaning assigned by section 41(6) of the Interpretation Act (Northern Ireland) 1954 (but as if the regulations or orders in question were statutory instruments within the meaning of that Act).

#### Textual Amendments

- F15** S. 166(2)(za) inserted (4.4.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **116(2)**; S.R. 2016/46, art. 4(b)
- F16** Words in s. 166(2)(a) repealed (6.10.1997) by S.I. 1997/1183 (N.I. 12), art. 31(1)(2), Sch. 3, para. 10, **Sch. 4**; S.R. 1997/400, **art. 2**
- F17** Words in s. 166(2)(a) inserted (1.7.1997) by 1997 c. 47, s. 22, **Sch. 1 para. 13**; S.I. 1997/1577, art. 2, **Sch.**
- F18** S. 166(2)(aa) inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4)(f), 74, **Sch. 9 para. 59** (with art. 75)
- F19** S. 166(2)(aaa) inserted (10.9.2003) by Social Security Act (Northern Ireland) 2002 (c. 10), s. 9(1), **Sch. 1 para. 9**; S.R. 2003/396, **art. 2**
- F20** S. 166(2)(ab) inserted (23.12.2002 for certain purposes, otherwise 24.2.2003) by 2001 c. 17 (N.I.), ss. 1(9), 17(1); S.R. 2002/406, **art. 2(1)(a)(b)**

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- F21** Words in s. 166(2)(b) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 50(2)** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F22** Word in s. 166(2)(b) inserted (with effect in accordance with s. 5(3)(4) of the amending Act) by **Pensions Act (Northern Ireland) 2008 (c. 1), Sch. 1 para. 27**
- F23** Word in s. 166(2)(b) inserted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by virtue of **Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), Sch. 12 para. 23**
- F24** Words in s. 166(5) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 50(3)** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F25** Words in s. 166(5) omitted (12.4.2010) by virtue of **The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 18 para. 47(a)** (with arts. 28-31)
- F26** S. 166(5A) inserted (12.4.2010) by **The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 18 para. 47(b)** (with arts. 28-31)
- F27** S. 166(10A) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 50(4)** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F28** Words in s. 166(10A) inserted (26.2.2003 for specified purposes, 1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by **Tax Credits Act 2002 (c. 21), s. 61, Sch. 4 para. 11(3); S.I. 2003/392, art. 2** (subject to savings in art. 3)
- F29** S. 166(11) repealed (2.12.1999) by S.I. 1999/663, arts. 1(2), 2(2), **Sch. 2; S.I. 1999/3208, art. 2**

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**Modifications etc. (not altering text)**

- C6** S. 166(1) applied (17.3.1993) by S.I. 1993/592 (N.I. 2), **art. 4(8)**
- C7** S. 166 excluded (1.10.2013) by **Welfare Benefits Up-rating Act 2013 (c. 16), ss. 1(9), 3(4); S.I. 2013/2317, art. 2(a)**
- C8** S. 166(1) extended (4.7.1996) by S.I. 1996/1632 (N.I. 11), **art. 1(2), 17(4)**
- C9** S. 166(1) applied by SI 1988/594 (N.I. 2) art. 13(7) (as substituted (27.11.2006) by **The Food Benefit Schemes (Northern Ireland) Order 2003 (S.I. 2003/3202), arts. 1(3), 3(1); S.R. 2006/418, art. 2(1)** (with art. 2(2)) (as substituted by S.R. 2006/437, art. 2))

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**Marginal Citations**

- M2** 1954 c. 33 (N.I.).

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

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. [S.I. 2018/1125, reg. 8](#) omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Act modified by [S.R. 2019/211 art. 2\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Affecting Order revoked (19.12.2020) without ever being in force by [S.R. 2020/347](#), arts. 1(1), 2)

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

- s. 101(1)(4)(5)s. 101(6)(a)(b) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 2A(9) added by [2010 c. 13 \(N.I.\) Sch. 1 para. 24](#)
- s. 2G(1)(d) inserted by [S.I. 2015/2006 \(N.I.\) art. 65\(5\)](#)
- s. 5(1A)-(1C) inserted by [2010 c. 13 \(N.I.\) s. 18\(2\)\(c\)](#)
- s. 31A(1A) words substituted by [S.I. 2015/2006 \(N.I.\) Sch. 4 para. 11\(a\)\(ii\)](#)
- s. 104A(1A)-(1C) inserted by [2007 c. 2 \(N.I.\) s. 42\(3\)](#)
- s. 110A inserted by [2007 c. 2 \(N.I.\) s. 43](#)
- s. 110A repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 110A heading word inserted by [S.I. 2015/2006 \(N.I.\) art. 114\(4\)](#)
- s. 110A(2) words substituted by [S.I. 2015/2006 \(N.I.\) art. 114\(5\)\(a\)](#)
- s. 110A(2)(b) words substituted by [S.I. 2015/2006 \(N.I.\) art. 114\(5\)\(b\)](#)
- s. 110A(4)(b) words substituted by [S.I. 2015/2006 \(N.I.\) art. 114\(6\)](#)
- s. 110ZA inserted by [S.I. 2015/2006 \(N.I.\) art. 114\(2\)](#)
- s. 110ZA repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 116E and cross-heading inserted by [2010 c. 13 \(N.I.\) s. 16\(3\)](#)
- s. 126(2)-(2B) substituted for s. 126(2) by [2007 c. 2 \(N.I.\) s. 35](#)
- s. 130AB inserted by [2008 c. 13 \(N.I.\) Sch. 3 para. 14](#)
- s. 140C inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 20](#)
- s. 166(2)(ac) inserted by [2010 c. 13 \(N.I.\) s. 17](#)