



# 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 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 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);
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes

*Status: Point in time view as at 06/10/1997.*

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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.
- (6) Without prejudice to any specific provision of this Act, a power conferred by any provision of this Act, except sections 12, 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.
- (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>F1</sup>(a) .....
  - (b) regulations under section <sup>F2</sup> . . . 152(5)(c) above;
  - (c) an order under section 142(7), 145(4) 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, 152 and 154, to make any regulations or an order, where the power is not expressed to 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 any of sections 153 to 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.
- (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.

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#### Textual Amendments

- F1** 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**
- F2** 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**

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

- C1** 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**

#### 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—
  - (a) to any regulations made by the Department under section <sup>F3</sup>. . . [<sup>F4</sup>116B(1)(b)], 131 or 134 above; and
  - (b) to any order made by the Department under section 129, 132, 133 or 142 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) below, all regulations made under this Act by the Lord Chancellor shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the <sup>M2</sup>Statutory Instruments Act 1946 shall apply accordingly.
- (6) Section 41(3) of the <sup>M3</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.

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- (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.
- (11) During the interim period (as defined by section 1(4) of the <sup>M4</sup>Northern Ireland Act 1974), subsections (1) and (4) above have effect subject to paragraph 3 of Schedule 1 to that Act.
- (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

- F3** 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
- F4** 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.

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

- C2** S. 166(1) applied (17.3.1993) by S.I. 1993/592 (N.I. 2), art. 4(8)
- C3** S. 166(1) extended (4.7.1996) by S.I. 1996/1632 (N.I. 11), art. 1(2), 17(4)

#### Marginal Citations

- M2** 1946 c. 36.
- M3** 1954 c. 33 (N.I.).
- M4** 1974 c. 28.

### Supplementary

#### 167 Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “the Assembly” means the Northern Ireland Assembly;
- “the 1975 Act” means the <sup>M5</sup>Social Security (Northern Ireland) Act 1975;
- “benefit” means benefit under the Contributions and Benefits Act [<sup>F5</sup>and includes a jobseeker’s allowance];

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“Christmas bonus” means a payment under Part X of the Contributions and Benefits Act;

“claimant” (in relation to contributions under Part I and to benefit under Parts II to IV of the Contributions and Benefits Act) means—

- (a) a person whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution, is in question;
- (b) a person who has claimed benefit;

and includes, in relation to an award or decision, a beneficiary under the award or affected by the decision;

“claim” is to be construed in accordance with “claimant”;

“claimant” (in relation to industrial injuries benefit) means a person who has claimed such a benefit and includes—

- (a) an applicant for a declaration under section 42 above that an accident was or was not an industrial accident; and
- (b) in relation to an award or decision, a beneficiary under the award or affected by the decision;

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a Tribunal of 2 or 3 Commissioners constituted under section 55 above;

F6  
...  
F6  
...

“the Consequential Provisions Act” means the <sup>M6</sup>Social Security (Consequential Provisions) (Northern Ireland) Act 1992;

“Consolidated Fund” means the Consolidated Fund of Northern Ireland;

[<sup>F7</sup>“contribution” means a contribution under Part I of the Contributions and Benefits Act;]

[<sup>F8</sup>“contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

“contribution card” has the meaning assigned to it by section 108(6) above;

“the Contributions and Benefits Act” means the <sup>M7</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;

[<sup>F9</sup>“the Department” means the Department of Health and Social Services for Northern Ireland but in sections—

- (a) 109A;
- (b) 116;
- (c) 116B to 116D; and
- (d) 144(8),

also includes the Department of the Environment;]

“the Department of the Environment” means the Department of the Environment for Northern Ireland;

“the Department of Finance and Personnel” means the Department of Finance and Personnel in Northern Ireland; [<sup>F10</sup>but in sections 116 and 116B also includes the Department of the Environment;]

“disablement benefit” is to be construed in accordance with section 94(2)(a) of the Contributions and Benefits Act;

“the disablement questions” is to be construed in accordance with section 43 above;

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“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“the Great Britain Administration Act” means the <sup>M8</sup>Social Security Administration Act 1992;

“the Great Britain Contributions and Benefits Act” means the <sup>M9</sup>Social Security Contributions and Benefits Act 1992;

“the Housing Executive” means the Northern Ireland Housing Executive;

[<sup>F11</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

“income-related benefit” means—

- (a) income support;
- (b) family credit;
- (c) disability working allowance; and
- (d) housing benefit;

“industrial injuries benefit” means benefit under Part V of the Contributions and Benefits Act, other than under Schedule 8;

<sup>F12</sup>  
...

“Joint Authority” means the Head of the Department and the Secretary of State;

“medical examination” includes bacteriological and radiographical tests and similar investigations, and “medically examined” has a corresponding meaning;

“medical practitioner” means—

- (a) a registered medical practitioner; or
- (b) a person outside the United Kingdom who is not a registered medical practitioner, but has qualifications corresponding (in the Department’s opinion) to those of a registered medical practitioner;

“medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references to a person receiving or submitting himself to medical treatment are to be construed accordingly;

[<sup>F13</sup>“money purchase contracted-out scheme” has the same meaning as in section 4(1)(a)(ii) of the Pensions Act;]

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

“occupational pension scheme” has the same meaning as in [<sup>F14</sup>section 1 of the Pensions Act];

“the Old Cases Act” means the <sup>M10</sup>Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975;

“Old Cases payments” means payments under Part I of Schedule 8 to the Contributions and Benefits Act;

“the 1986 Order” means the <sup>M11</sup>Social Security (Northern Ireland) Order 1986;

[<sup>F15</sup>“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;]

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[<sup>F16</sup>“the Pensions Act” means the Pension Schemes (Northern Ireland) Act 1993;]

“the Pensions Order” means the <sup>M12</sup>Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning assigned to it by [<sup>F17</sup>section 1 of the Pensions Act][<sup>F18</sup>and “appropriate”, in relation to such a scheme, shall be construed in accordance with section 3 of that Act];

“prescribe” means prescribe by regulations;

“President” means the President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;

“regulations” means regulations made by the Department or the Lord Chancellor under this Act;

“statutory provision” has the meaning assigned to it by section 1(f) of the <sup>M13</sup>Interpretation Act (Northern Ireland) 1954 ;

“tax year” means the 12 months beginning with 6th April in any year;

“widow’s benefit” has the meaning assigned to it by section 20(1)(e) of the Contributions and Benefits Act.

- (2) For the purposes of Part III of the <sup>M14</sup>Northern Ireland Constitution Act 1973 (validity of Measures of the Northern Ireland Assembly, including Orders in Council under the <sup>M15</sup>Northern Ireland Act 1974), provisions of this Act which re-enact provisions of a Measure of the Assembly or such an Order are to be treated as provisions of such a Measure or Order.

#### Textual Amendments

- F5** Words in s. 167(1) inserted (3.5.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 51(2)**; S.R. 1996/180, **art. 2**
- F6** Definitions in s. 167(1) repealed (6.10.1997) by S.I. 1997/1183 (N.I. 11), art. 31(1)(2), Sch. 3, para. 11, **Sch. 4**; S.R. 1997/400, **art. 2**
- F7** Definition in s. 167(1) inserted (1.7.1997) by 1997 c. 47, s. 22, **Sch. 1 para. 14(2)**; S.I. 1997/1577, art. 2, **Sch.**
- F8** Definition in s. 167(1) inserted (3.5.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 51(3)**; S.R. 1996/180, **art. 2**
- F9** Definition of “the Department” in s. 167 substituted (1.7.1997 in part, 21.11.1997 in part and for certain purposes, and 18.12.1997 otherwise) by S.I. 1997/1182 (N.I. 11), art. 19(1), **Sch. 1**, para. 7; S.R. 1997/316, art. 2, **Sch.**; S.R. 1997/508, **art. 2**
- F10** Words in definition in s. 167(1) inserted (1.7.1997) by 1997 c. 47, s. 22, **Sch. 1**, para. 14(3); S.I. 1997/1577, art. 2, **Sch.**
- F11** Definition in s. 167(1) inserted (3.5.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 51(4)**; S.R. 1996/180, **art. 2**
- F12** Definition in s. 167(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. II, para. 51, **Sch. 2**; S.R. 1994/450, art. 2, **Sch. Pt. IV**
- F13** Definitions in s. 167(1) added (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(a)**; S.R. 1994/17, **art. 2**
- F14** Words in definition in s. 167(1) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(b)**; S.R. 1994/17, **art. 2**
- F15** Definition in s. 167(1) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 123, **Sch. 2**, Pt. III, para. 10; S.R. 1997/192, **art. 2**
- F16** Definition in s. 167(1) inserted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(c)**; S.R. 1994/17, **art. 2**

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**F17** Words in definition in s. 167(1) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(d)**; S.R. 1994/17, **art. 2**

**F18** Words in definition in s. 167(1) added (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(d)**; S.R. 1994/17, **art. 2**

#### Marginal Citations

**M5** 1975 c. 15.

**M6** 1992 c. 9.

**M7** 1992 c. 7.

**M8** 1992 c. 5.

**M9** 1992 c. 4.

**M10** 1975 c. 17.

**M11** S.I. 1986/1888 (N.I. 18).

**M12** S.I. 1975/1503 (N.I. 15).

**M13** 1954 c. 33 (N.I.).

**M14** 1973 c. 36.

**M15** 1974 c. 28.

#### 168 Short title, commencement and extent.

- (1) This Act may be cited as the Social Security Administration (Northern Ireland) Act 1992.
- (2) This Act is to be read, where appropriate, with the Contributions and Benefits Act and the Consequential Provisions Act.
- (3) The enactments consolidated by this Act are repealed, in consequence of the consolidation, by the Consequential Provisions Act.
- (4) Except as provided in Schedule 4 to the Consequential Provisions Act, this Act shall come into force on 1st July 1992.
- (5) Subject to subsection (6) below, this Act extends to Northern Ireland only.
- (6) Section 22 above and this section also extend to Great Britain.



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