



# Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002

## 2002 CHAPTER 5

**N.I.**

An Act to make provision in relation to persons in residential accommodation with preserved rights under the Income Support (General) Regulations (Northern Ireland) 1987; and for connected purposes. [26th March 2002]

### **Preserved rights: transfer to Department of responsibilities as to accommodation** **N.I.**

1.—(1) Article 36A of the 1972 Order (which prevents the Department providing residential accommodation for persons who were in such accommodation on 31st March 1993) shall cease to have effect on the appointed day.

(2) For the purposes of this section a “qualifying person” is a person to whom Article 36A(1) of that Order applied immediately before the appointed day.

(3) Where on or after the appointed day a qualifying person is provided by the Department with any [<sup>F1</sup>social care] in respect of his accommodation, his existing arrangements shall, by virtue of this subsection, terminate on the date as from which he is provided with those services.

(4) Where any such person is not provided with any such services as from the appointed day, any liability of his to make any payment under his existing arrangements in respect of any period (or part of a period) falling within the period beginning with the appointed day and ending with—

- (a) the date as from which he is provided with any such services, or

- (b) the date on which he notifies (or is in accordance with regulations to be treated as notifying) the Department that he does not wish to be provided with any such services,

shall instead be a liability of the Department.

(5) However the Department may, in respect of any payment made by it in pursuance of subsection (4), recover from the person such amount (if any) as may be prescribed; and any such amount shall be so recoverable summarily as a civil debt.

(6) Subsections (3) to (5) do not apply, to such extent as may be prescribed, in relation to any person falling within any prescribed description of persons.

(7) Regulations may—

- (a) prescribe the circumstances in which persons are to be treated as ordinarily resident in any premises for the purposes of this section;
- (b) for the purpose of prescribing any such amount as is mentioned in subsection (5), provide for any provision made by or under Article 36 of the 1972 Order to apply with or without modifications.

(8) In this section “existing arrangements”, in relation to a person, means the arrangements for the provision of accommodation in the relevant premises in question, together with any arrangements for the provision of any services or facilities in connection with that accommodation.

**F1** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)

### **Preserved rights: disclosure of information** **N.I.**

2.—(1) For the purposes of this section a “claimant” is—

- (a) in relation to any time before the appointed day, a person who is ordinarily resident in relevant premises and has a preserved right by virtue of which enhanced payments are being made to or in respect of him by way of income support or jobseeker's allowance; or
- (b) in relation to any later time, a person who fell within paragraph (a) immediately before that day.

(2) Any information—

- (a) held by, or by a person providing services to, the Department for Social Development about a claimant, and
- (b) relating to income support or jobseeker's allowance,

may be supplied, for qualifying purposes, to the Department or to any person providing services to, or authorised to exercise functions of, the Department.

(3) Where information relating to a claimant is supplied to the Department or any person (“the recipient”) in accordance with subsection (2), the information may be supplied by the recipient, for qualifying purposes, to any person providing services to, or authorised to exercise functions of, the Department.

(4) In subsections (2) and (3) “qualifying purposes”, in relation to information relating to a claimant, means—

- (a) purposes connected with the performance of functions under section 1 in relation to the claimant; or
- (b) other purposes connected with the termination of his preserved rights in consequence of section 3; or
- (c) (in subsection(2)) any further supply of the information under subsection (3).

(5) Where information relating to a particular person is supplied to the Department or any person in accordance with subsection (2) or (3), section 117 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (unauthorised disclosure of information relating to particular persons) shall apply in relation to the disclosure of the information by—

- (a) any recipient of the information (other than the Department) or any officer or employee of such a recipient, or
- (b) any officer or employee of the Department,

without lawful authority (within the meaning of that section) as it applies to any disclosure of information to which subsection (1) of that section applies.

### **Preserved rights: alignment of social security benefits** **N.I.**

3. The Department for Social Development shall so exercise its powers under—

- (a) section 131(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (applicable amount in relation to income-related benefits), and
- (b) Article 6(5) of the Jobseekers (Northern Ireland) Order 1995 (NI 15) (amount payable by way of jobseeker's allowance),

as to secure that any special provision made in exercise of those powers as respects income support or jobseeker's allowance payable to or in respect of persons who have preserved rights ceases to have effect on the appointed day.

*Section 4—Repeals*

### **Interpretation** **N.I.**

5.—(1) In this Act—

“the appointed day” means the day appointed under section 7 for the coming into operation of section 1(1);

“the Department” means the Department of Health, Social Services and Public Safety;

“ordinarily resident” shall be construed in accordance with regulations under section 1(7)(a);

“prescribed” means prescribed by regulations;

“preserved right” means a preserved right within the meaning of the Income Support (General) Regulations (Northern Ireland) 1987 (SR 1987/459);

“regulations” means regulations made by the Department;

“relevant premises” means premises listed in Article 36A(1) of the 1972 Order; and

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

(2) In this Act any reference (however expressed) to services provided by the Department includes services—

- (a) which the Department arranges to provide; or
- (b) the provision of which the Department secures.

(3) Except where any provision of this Act otherwise provides, any word or expression to which a meaning is assigned by Article 2(2) of the 1972 Order has the same meaning in this Act as in that Order.

### **Orders and regulations** **N.I.**

6.—(1) The Department may by order make—

- (a) any supplementary, incidental or consequential provision,
- (b) any transitory, transitional or saving provision,

which it considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

(2) The provision which may be made under subsection (1) includes provision amending or repealing any other statutory provision, instrument or document.

(3) Subject to subsection (4), any regulations or orders under this Act shall be subject to negative resolution.

(4) Subsection (3) does not apply to an order under section 7.

(5) Regulations and orders under this Act may contain—

- (a) any supplementary, incidental or consequential provision,
- (b) any transitory, transitional or saving provision,

(c) any provision for a person to exercise a discretion in dealing with any matter,  
which the Department considers necessary or expedient.

**Commencement** **N.I.**

7. Sections 1 and 4 (with the Schedule) come into operation on such day or days as the Department may by order appoint<sup>F2</sup>.

<b>F2</b> fully exercised by SR 2002/131
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**Short title** **N.I.**

8. This Act may be cited as the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002.

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Rights) Act (Northern Ireland) 2002*

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**Changes to legislation:** *There are currently no known outstanding effects for the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002. (See end of Document for details)*

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N.I.

*Schedule—Repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002.