

These notes refer to the Social Security (Terminal Illness) Act (Northern Ireland) 2022 (c.7) which received Royal Assent on 30th March 2022

Social Security (Terminal Illness) Act (Northern Ireland) 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Special rules to apply where death expected within 12 months

Subsections (1) and (2) amend the life expectancy timeframe to 12 months in the definitions of “terminally ill” which are used for the purposes of fast track access to AA, DLA, PIP, ESA and UC. Subsection (2) also contains amendments to enable the new timeframe to apply for the purposes of provisions in decisions and appeals legislation and those relating to passporting advantages, such as premia and disregards, in certain income-related benefits.

Subsections (3) and (4) make amendments to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to enable the modified version of the prospective test in DLA to apply where death is expected within 12 months.

Subsection (5) adds wording to the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 so that the amended “terminally ill” definition can apply for the purposes of these Regulations.

Subsection (6) updates an older reference to the definition of “terminally ill” in the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 with the current one that applies to attendance allowance claimants.

Subsection (8) ensures that the amendments made by the Act do not apply for the purposes of the Individual Savings Account Regulations 1998 and the Child Trust Funds Regulations 2004. Certain provisions within those Regulations include reference to a “terminally ill” definition used in social security legislation. As those Regulations extend to the entire UK and deal with income tax and child trust funds which are excepted matters, it is considered that changing them is likely to fall outside the competency of the Assembly.

Section 2: Consequential provision

Section 2 allows the Department to make by regulations any consequential provision necessary to give full effect to the Act. Regulations which amend, revoke or repeal any primary legislation cannot come into operation unless and until approved by the Assembly.

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Section 3: Commencement and short title

Section 3 makes provision about the commencement of the provisions in the Act and provides for the short title of the Act to be the Social Security (Terminal Illness) Act (Northern Ireland) 2022.