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STATUTORY INSTRUMENTS

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1979 No. 396 (N.I. 5)

NORTHERN IRELAND

**The Social Security (Northern Ireland) Order 1979**

*Made*

30th March 1979

*Coming into operation in accordance with Article 1 (2) to (5)*

*Laid before Parliament*

2nd April 1979

ARRANGEMENT OF ORDER

Article

*Introductory*

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2. Interpretation.

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3. Attendance allowance.
4. Mobility allowance.
5. Amendment of provisions relating to earnings after retirement age.
6. Amendment of principal Act, Pensions Order and Order of 1977.

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7. Appeals from and to Supplementary Benefit Appeal Tribunals.
8. Incompatible benefits.
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10. Increase of official pensions.
11. Adjustment of secondary Class 1 contributions for exceptions to redundancy provisions.
12. Overlap with benefits under legislation of other member States.
13. Criminal proceedings.
14. Treatment of insignificant amounts.
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SCHEDULES:

Schedule 1—Amendment of principal Act, Pensions Order and Order of 1977.

Part I—Miscellaneous amendments of provisions relating to retirement and invalidity pensions.

Part II—Modification of certain provisions in relation to events occurring before 6th April 1979.

Schedule 2—Schedule 4 to the Supplementary Benefits (Northern Ireland) Order 1977, as substituted.

Schedule 3—Minor and consequential amendments and repeals.

At the Court at Buckingham Palace, the 30th day of March 1979

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order in Council operates only so far as to make for Northern Ireland provision corresponding to provisions contained in the Social Security Act 1979 (a):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (b) (as modified by section 19 of the said Act of 1979) and of all other powers enabling Her in that behalf, is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

#### *Introductory*

##### *Title, citation and commencement*

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1979 and the Social Security (Northern Ireland) Acts 1975 to 1977 and this Order may be cited together as the Social Security (Northern Ireland) Acts 1975 to 1979.

(2) Subject to paragraphs (3) to (5), this Order shall come into force forthwith.

(3) Article 4 (2) shall not come into force in relation to women who on the date on which the Social Security Act 1979 is passed have attained the age of 60 but not the age of 65 until such day as the Secretary of State may by order appoint.

(4) Article 10 and paragraphs 2 to 22 of Schedule 1 and paragraphs 4, 5, 6, 9, 11, 12, 14, 16 to 22 and 28 (a) and (b) of Schedule 3 shall not come into force until 6th April 1979.

(5) Paragraph 26 of Schedule 3 shall not come into force until such day as may be appointed in rules made under Article 20A of the Supplementary Benefits (Northern Ireland) Order 1977 (c).

##### *Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (d) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the principal Act” means the Social Security (Northern Ireland) Act 1975 (e);

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(a) 1979 c. 18.

(b) 1974 c. 28.

(c) S.I. 1977/2156 (N.I. 27).

(d) 1954 c. 33 (N.I.).

(e) 1975 c. 15.

“the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975 (a);

“the Order of 1977” means the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (b).

### *Allowances and pensions*

#### *Attendance allowance*

3.—(1) Section 35 of the principal Act shall have effect subject to the following provisions of this Article.

(2) In subsection (2) (b) for the words “immediately preceded” there shall be substituted the words “preceded immediately, or within such period as may be prescribed,”.

(3) After subsection (2) there shall be inserted the following subsection—

“(2A) For the purposes of subsection (2) above a person who suffers from renal failure and is undergoing such form of treatment as may be prescribed shall, in such circumstances as may be prescribed, be deemed to satisfy or to be likely to satisfy one or both of those conditions.”.

(4) In subsection (3), for the words “preceding 6 months” there shall be substituted the words “period of 6 months mentioned in subsection (2) (b) above”.

(5) In subsection (4) (a), for the words “mentioned in subsection (2) (b) above” and “there mentioned” there shall be substituted, respectively, the words “immediately preceding the period for which the allowance is payable” and “mentioned in subsection (2) (b) above” and after the words “that period” there shall be inserted the words “of 6 months”.

(6) After subsection (5) there shall be inserted the following subsection—

“(5A) Regulations may provide that, in such circumstances and for such purposes as may be prescribed, a person who is, or is treated under the regulations as, undergoing treatment for renal failure in a hospital or other similar institution otherwise than as an in-patient shall be deemed not to satisfy or to be unlikely to satisfy one or both of the conditions mentioned in subsection (1) (a) and (b) above.”.

#### *Mobility allowance*

4.—(1) Section 37A of the principal Act shall have effect subject to the following provisions of this Article.

(2) In subsection (4) (periods for which mobility allowance is not payable)—

(a) in paragraph (a) (allowance not payable to a person for any period in which he is under the age of 5 or over pensionable age) for the words “pensionable age” there shall be substituted the words “the age of 75”; and

(b) after paragraph (a) there shall be inserted the following paragraph—

“(aa) in respect of a period in which he is over the age of 65 but under the age of 75 unless either—

(i) he had been entitled to a mobility allowance in respect of a period ending immediately before the date on which he attained the age of 65; or

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(a) S.I. 1975/1503 (N.I. 15).

(b) S.I. 1977/610 (N.I. 11).

(ii) he would have been so entitled but for paragraph (b) below and a claim for the allowance by or in respect of him is made before the date on which he attained the age of 66;”.

(3) After subsection (5) there shall be inserted the following subsections—

“(5A) Regulations may provide that this section shall have effect in relation to prescribed categories of persons in respect of whom certificates issued in pursuance of regulations made under Article 10 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (mobility allowance for person eligible for invalid carriage) are in force as if, in subsection (4), the words “or over the age of 75” and paragraph (aa) were omitted.

(5B) Where, before the coming into force of this subsection, a person has been awarded a mobility allowance for a specified period ending with the date on which he will attain pensionable age, that award shall have effect as if it referred instead to a period ending with the date on which he will attain the age of 75 years.”.

#### *Amendment of provisions relating to earnings after retirement age*

5.—(1) In section 30 of the principal Act (supplementary provisions about retirement pensions) at the end there shall be added the following subsection—

“(6) The Department may by order—

(a) substitute for the period of 5 years mentioned in section 27 (5) of this Act and subsection (1) above a shorter period; and

(b) substitute for the ages of 65 and 70 mentioned in sections 26 (1) and (3), 36 (5), 37 (6) and 79 (2) (a) of this Act and subsection (3) above such lower ages as are appropriate in consequence of any provision made by virtue of paragraph (a) above.”.

(2) In section 156 of the principal Act (control by Assembly of orders and regulations) in subsection (2) after paragraph (b) there shall be inserted the following paragraph—

“(bb) any order made by the Department under section 30 (6);”.

#### *Amendment of principal Act, Pensions Order and Order of 1977*

6.—(1) The provisions of the principal Act, the Pensions Order and the Order of 1977 specified in Part I of Schedule 1 shall have effect subject to the amendments there specified (miscellaneous amendments of provisions relating to retirement and invalidity pensions).

(2) The provisions of the principal Act and the Pensions Order specified in Part II of Schedule 1 shall have effect subject to the amendments there specified (modification of certain provisions in relation to events occurring before 6th April 1979).

#### *Appeals and reviews, etc.*

#### *Appeals from and to Supplementary Benefit Appeal Tribunals*

7.—(1) The Supplementary Benefits (Northern Ireland) Order 1977 shall have effect subject to the following provisions of this Article.

(2) In Article 19 (2) (power to make regulations) after paragraph (e) there shall be inserted the following paragraph—

“(ee) for suspending the payment of supplementary benefit pending the determination of questions; and”.

(3) After Article 20 (appeals from Supplementary Benefits Commission) there shall be inserted the following Article—

*“Appeals from Appeal Tribunal*

20A.—(1) The Department may by rules make provision for any party to proceedings before an Appeal Tribunal (whether under this or any other enactment) to appeal to a National Insurance Commissioner against a decision of the tribunal.

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

(a) as to the cases and circumstances in which, and the conditions subject to which, appeals may be made, including provision either generally or in relation to specified classes of case for appeals—

(i) to be confined to points of law;

(ii) to be made only with leave;

(b) as to the manner in which, and the time within which, appeals are to be brought and (where appropriate) applications are to be made for leave to appeal;

(c) as to the procedure to be followed on appeals;

(d) as to the payment by the Department to persons attending proceedings before a Commissioner of travelling and other allowances (including compensation for loss of remunerative time).

(3) The power to make provision as to procedure under paragraph (2)

(c) includes power to make provision as to the representation of one person in any proceedings by another person.

(4) Rules under this Article may provide for a Commissioner hearing an appeal—

(a) to give any decision which might have been given by the tribunal;

(b) to refer the case to another tribunal, with directions;

(c) to dispose of the appeal in such other manner as may be specified;

and in any case where directions are given to a tribunal in accordance with rules under this Article the tribunal shall proceed accordingly.

(5) In this Article “National Insurance Commissioner” has the same meaning as in the Social Security (Northern Ireland) Act 1975 and includes a Tribunal of Commissioners under section 116 of that Act.”.

(4) For Schedule 4 (constitution, jurisdiction and proceedings of appeal tribunals) there shall be substituted the Schedule set out in Schedule 2 to this Order.

*Incompatible benefits*

8. In section 86 of the principal Act (set-off of overpayments) for subsection (2) there shall be substituted the following subsection—

“(2) Where on review or appeal a decision awarding or refusing a person benefit is revised, or is reversed or varied, but he retains any sums paid either in pursuance of the original decision or of any other decision awarding him benefit and those sums would not have been payable if the decision on the review or appeal had been given in the first instance, then, except in so far as regulations otherwise provide,—

(a) where the decision on the review or appeal reverses a decision refusing the person benefit, the decision on the review or appeal

shall direct that those sums shall be treated as having been paid on account of that benefit (except to the extent that they exceed the amount of that benefit);

- (b) in any other case, any subsequent decision awarding the person other benefit, being a benefit to which a right to any of those sums would by virtue of any such provision as is mentioned in subsection (1) above have disentitled him, shall direct that those sums shall be treated as having been paid on account of the other benefit (except to the extent that they exceed the amount of that other benefit).”.

#### *Repayment of benefit*

9. In section 119 of the principal Act (effect of adjudication on payment and recovery) after subsection (2) there shall be inserted the following subsection—

“(2A) Where, in pursuance of a decision, an amount of benefit was paid which would not have been paid if the facts established for the purpose of any subsequent decision by an insurance officer, local tribunal or Commissioner had been known and—

- (a) the subsequent decision is given in relation to the same benefit but is not given on an appeal against or a review of the earlier decision; and  
(b) the circumstances are not such as to enable the earlier decision to be reviewed;

the subsequent decision shall require repayment of that amount (except so much of it as is directed by the decision to be treated as having been properly paid) unless it is shown to the satisfaction of the insurance officer; tribunal or Commissioner that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.”.

#### *Miscellaneous and supplementary*

##### *Increase of official pensions*

10.—(1) The Pensions Order shall have effect subject to the following provisions of this Article.

(2) In Article 69 (increase of official pensions)—

- (a) in paragraph (5) for the words from “a person” to “by reference” (in the second place where they occur) there shall be substituted the words—

“(a) a person is entitled to a guaranteed minimum pension when an order under this Article comes into force; and

- (b) entitlement to that guaranteed minimum pension arises from an employment from which (either directly or by virtue of the payment of a transfer credit under Article 40) entitlement to the official pension also arises;

the amount by reference”;

- (b) in paragraph (7) in the definition of “base period”, for the words from “the first” to the end there shall be substituted the words “13th November 1978 (date of the relevant order under section 120 of the principal Act, increasing rates of benefit)”;

(c) at the end there shall be added the following paragraph—

“(8) Where, for the purposes of this Article, it is necessary to calculate the number of complete months in any period an incomplete month shall be treated as a complete month if it consists of at least 16 days.”.

(3) After Article 69 there shall be inserted the following Article—

*“Modification of effect of Article 69 (5)*

69A.—(1) This Article applies where the amount by reference to which an increase in an official pension is to be calculated would, but for the provisions of this Article, be reduced under Article 69 (5) by an amount equal to the rate of a guaranteed minimum pension.

(2) The Department of the Civil Service may direct that in such cases or classes of case as may be specified in the direction—

(a) no such reduction shall be made; or

(b) the reduction shall be of an amount less than the rate of the guaranteed minimum pension;

and in any case to which such a direction applies the increase shall, in respect of such period or periods as may be specified in the direction be calculated in accordance with the direction, notwithstanding Article 69 (5).

(3) A direction under this Article may provide that where it has applied in any case and ceases to apply in that case, the rate of the official pension for any period following the date on which the direction ceases to apply shall, in such circumstances as may be specified in the direction, be calculated as if the direction had never applied.

(4) A direction under this Article may provide that the rate of an official pension shall, in such circumstances as may be specified in the direction, be calculated as if the direction had been in force at all times during such period as may be so specified.

(5) A direction made under paragraph (2) may be varied or revoked by a subsequent direction.”.

*Adjustment of secondary Class 1 contributions for exceptions to redundancy provisions*

11.—(1) The principal Act shall have effect subject to the following provisions of this Article.

(2) At the end of section 4 there shall be added the following subsection—

“(7) Regulations may provide for reducing secondary Class 1 contributions which are payable in respect of persons to whom section 11 (redundancy payments) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 does not apply by virtue of section 26 (1) or (5) of that Act.”.

(3) In section 128 (destination of contributions) at the end of subsection (6) (power to modify section) there shall be added the words “and in relation to any contributions which are reduced under section 4 (7) of this Act”.

*Overlap with benefits under legislation of other member States*

12.—(1) In section 85 of the principal Act (overlapping benefits) at the end there shall be added the following subsections—

"(4) Regulations may provide for adjusting benefit payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.

(5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—

- (a) the person referred to in that subsection;
- (b) that person's wife or husband;
- (c) any child or adult dependant of that person; or
- (d) the wife or husband of any adult dependant of that person."

(2) In the Child Benefit (Northern Ireland) Order 1975 (a) after Article 6 there shall be inserted the following Article—

*"Overlap with benefits under legislation of other member States*

6A. Regulations may provide for adjusting child benefit payable in respect of any child in respect of whom any benefit is payable under the legislation of any member State other than the United Kingdom."

*Criminal proceedings*

13. For the purposes of the Criminal Evidence Act (Northern Ireland) 1965 (b) as it applies in relation to proceedings for any offence which is connected with—

- (a) the obtaining or receipt of any benefit under the Family Income Supplements Act (Northern Ireland) 1971 (c), the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975 (d), the Child Benefit (Northern Ireland) Order 1975, the principal Act or the Supplementary Benefits (Northern Ireland) Order 1977; or
- (b) the failure to pay any Class 1 or Class 2 contribution (within the meaning of Part I of the principal Act),

"business" shall include the activities of the Department of Health and Social Services.

*Treatment of insignificant amounts*

14. After Article 70 of the Pensions Order there shall be inserted the following Article—

*"Treatment of insignificant amounts*

70A. Where an amount is required to be calculated in accordance with the provisions of Articles 8 (3), 37 (4) and (6) and 38 (3) of, and paragraphs 2 (3) and 4A of Schedule 1 and, apart from this Article the amount so calculated is less than  $\frac{1}{2}$ p, then, notwithstanding any other provision of this Order, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking  $\frac{1}{2}$ p as nearest to the next whole penny above."

*Financial provision*

15. Subsection (5) of section 129 of the principal Act (reimbursement of expenses out of the National Insurance Fund) shall have effect in relation to

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(a) S.I. 1975/1504 (N.I. 16).  
(c) 1971 c. 8 (N.I.).

(b) 1965 c. 15 (N.I.).  
(d) 1975 c. 17.



the administrative expenses of the Department or any other government department in carrying this Order into effect as it has effect in relation to the expenses mentioned in subsection (3) (a) of that section.

*Minor and consequential amendments and repeals*

16. The statutory provisions mentioned in Schedule 3 shall have effect subject to the minor and consequential amendments and repeals specified in that Schedule.

*N. E. Leigh,*  
Clerk of the Privy Council.

## SCHEDULES

### Article 6.

#### SCHEDULE 1

#### AMENDMENT OF PRINCIPAL ACT, PENSIONS ORDER AND ORDER OF 1977

#### PART I

#### MISCELLANEOUS AMENDMENTS OF PROVISIONS RELATING TO RETIREMENT AND INVALIDITY PENSIONS

##### *The Social Security (Northern Ireland) Act 1975*

1. In section 15 (4) (disregard of certain amounts in calculating amount of pension by reference to which certain invalidity pensions are calculated) after paragraph (b) insert the words "and

(c) if he is also entitled to an invalidity allowance, any increase under section 28 (7) or 29 (8) of this Act (increase in Category A and B retirement pensions by amount equal to invalidity allowance)."

2. In section 39 (1) (c) (ii) (certain increases to be disregarded in determining entitlement to Category D retirement pension) after the word "disregarding" insert the words "any additional component, any increase so far as attributable to any additional component or to any increase in a guaranteed minimum pension, any graduated retirement benefit and".

3. In paragraph 5 of Schedule 3 (contribution conditions for retirement pensions etc.) for sub-paragraphs (6) and (7) (which provide for the second condition to be deemed to be satisfied in certain circumstances) substitute the following sub-paragraph—

"(6) The second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

(a) those paragraphs are complied with as respects at least half that number of years (or at least 20 of them, if that is less than half); and

(b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home."

##### *The Social Security Pensions (Northern Ireland) Order 1975*

4. In Article 10 (1) (provision for Category B retirement pension for a widower in certain circumstances) for paragraph (c) substitute the following paragraph—

"(c) before her death she satisfied the contribution conditions specified in paragraph 5 of Part I of Schedule 3 to the principal Act."

5. In Article 22 (1) (use of former spouse's contributions) after the words "those conditions" insert the words "(but only in respect of any claim for a Category A retirement pension)".

6. In paragraph 4 of Schedule 1 (increase of pension where pensioner's deceased spouse had deferred his retirement) after sub-paragraph (2) add the following sub-paragraph—

“(3) Where—

(a) there is a period between the death of the former spouse and the date on which the surviving spouse becomes entitled to a Category A or Category B retirement pension, and

(b) one or more orders have come into force under section 120 of the principal Act (increases in rates of benefit) during that period,

the amount of the increase to which the surviving spouse is entitled under this paragraph shall be determined as if the order or orders had come into force before the beginning of that period.”.

7. After paragraph 4 of Schedule 1 insert the following paragraph—

“4A.—(1) Where a woman is entitled to a Category A or Category B retirement pension and—

(a) she has had a husband and he has died and she was married to him when he died; and

(b) the husband either—

(i) was entitled to a guaranteed minimum pension with an increase under Article 37 (6); or

(ii) would have been so entitled if he had retired on the date of his death, the rate of her pension shall be increased by an amount equal to the sum of the following amounts, that is to say, an amount equal to one-half of that increase; the appropriate amount; and an amount equal to any increase to which he had been entitled under this paragraph.

(2) Where a man is entitled to a Category A or Category B retirement pension and—

(a) he has had a wife and she has died, and he was married to her when she died; and

(b) he was over pensionable age when she died; and

(c) the wife either—

(i) was entitled to a guaranteed minimum pension with an increase under Article 37 (6); or

(ii) would have been so entitled if she had retired on the date of her death, the rate of his pension shall be increased by an amount equal to the sum of the following amounts, that is to say, an amount equal to that increase; the appropriate amount; and an amount equal to any increase to which she had been entitled under this paragraph.

(3) The “appropriate amount” means either—

(a) the amount by which the deceased person's Category A or Category B retirement pension had been increased by an order under section 120 of the principal Act corresponding to an order under section 126A of the Social Security Act 1975, or

(b) the amount by which his Category A or Category B retirement pension would have been so increased had he died immediately before his surviving spouse became entitled to a Category A or Category B retirement pension, whichever is the greater.”.

*The Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977*

8. In Article 5 (1) (provision for payment of Category D retirement pension and Category A or Category B retirement pension at the same time) for the words “a Category D retirement pension” substitute the words “a Category C or Category D retirement pension”.

## PART II

### MODIFICATION OF CERTAIN PROVISIONS IN RELATION TO EVENTS OCCURRING BEFORE 6TH APRIL 1979

9. Expressions used in this Part of this Schedule and in the principal Act shall have the same meaning in this Part as they have in that Act.

#### *The Social Security (Northern Ireland) Act 1975*

10. In section 16 (rates at which invalidity allowance is payable)—

(a) for paragraphs (a) and (b) of subsection (2) substitute the following paragraphs—

“(a) at the higher rate specified in relation thereto in Schedule 4, Part I, if—

(i) the qualifying date fell before 5th July 1948; or

(ii) on the qualifying date the beneficiary was under the age of 35; or

(iii) on the qualifying date the beneficiary was under the age of 40 and had not attained pensionable age before 6th April 1979;

(b) at the middle rate so specified if paragraph (a) above does not apply and either—

(i) on the qualifying date the beneficiary was under the age of 45; or

(ii) on the qualifying date the beneficiary was under the age of 50 and had not attained pensionable age before 6th April 1979;”;

(b) after subsection (2) insert the following subsection—

“(2A) No payment shall be made by virtue of subsection (2) (a) (iii) or (b) (ii) above in respect of any period before 6th April 1979.”.

11. Section 28 (2) (entitlement of married woman to Category A retirement pension) shall, notwithstanding its repeal by Article 21 (4) of, and Schedule 6 to, the Pensions Order continue to apply in relation to any woman who attained pensionable age before 6th April 1979.

12. In section 59 (increase of unemployability supplement) at the end of subsection (1) insert the following words—

“Provided that no payment shall be made by virtue of heads (aa) or (bb) of that paragraph in respect of any period before 6th April 1979.

13. In paragraph 5 of Part V of Schedule 4 (weekly rates of the increase in unemployability supplement)—

(a) after paragraph (a) insert the following paragraph—

“(aa) if head (a) above does not apply and on the qualifying date the beneficiary was under the age of 40 and he had not attained pensionable age before 6th April 1979 .. .. . £4.15.”;

(b) in paragraph (b) for the words “head (a) above does” substitute the words “heads (a) and (aa) above do”;

(c) for paragraph (c) substitute the following paragraphs—

“(bb) if heads (a), (aa) and (b) above do not apply and on the qualifying date the beneficiary was under the age of 50 and had not attained pensionable age before 6th April 1979 .. .. . £2.60;

(c) in any other case .. .. . £1.30”.

#### *The Social Security Pensions (Northern Ireland) Order 1975*

14. Article 10 (1) (Category B retirement pension for widower) shall not apply in any case where the death of the wife occurred before 6th April 1979.

15. Article 11 (special provision for surviving spouses) shall not apply in any case where the death of the wife or husband (as the case may be) occurred before 6th April 1979 and the surviving spouse had attained pensionable age before that date.

16. Article 12 (special provision for married women) shall not apply in any case where both the husband and the wife attained pensionable age before 6th April 1979.

17. Article 17 (invalidity pension for widows) shall not apply in relation to a widow unless she ceased to be entitled to a widow's allowance or a widowed mother's allowance after 5th April 1979.

18. Article 18 (invalidity pension for widowers) shall not apply in any case where the wife died before 6th April 1979.

19. Article 19 (which is superseded by paragraphs 10 and 13) is hereby repealed.

20. Article 22 (use of former spouse's contributions) shall not apply in relation to any person who attained pensionable age before 6th April 1979 if the termination of his marriage (or, if he had been married more than once, his last marriage) also occurred before that date.

21. In paragraph 2 (2) (b) of Schedule 1 (which defines "period of deferment" for the purpose of enabling an increase of pension to be paid where retirement is deferred) for the words from "in relation to" to the end substitute the words—

"(i) in relation to any person who attains pensionable age after 5th April 1979, means the period beginning with the date on which he attains that age and ending with the day before that of his retirement;

(ii) in relation to any person who reaches pensionable age before 6th April 1979, means the period beginning with that date and ending with the day before the date of his retirement."

22. At the end of paragraph 4 of Schedule 1 (increase of pension where pensioner's deceased spouse had deferred his retirement) add the following sub-paragraph—

"(4) The preceding provisions of this paragraph shall not apply in any case where the deceased spouse died before 6th April 1979 and the widow or widower attained pensionable age before that date."

Article 7 (4).

## SCHEDULE 2

### SCHEDULE 4 TO THE SUPPLEMENTARY BENEFITS (NORTHERN IRELAND) ORDER 1977, AS SUBSTITUTED

#### SCHEDULE 4

##### CONSTITUTION, JURISDICTION AND PROCEEDINGS OF APPEAL TRIBUNALS

1. Every tribunal shall consist of—

- (a) a person drawn from those appointed by the Department to act as chairmen of the tribunals;
- (b) one member drawn from a panel of persons appearing to the Department to have knowledge or experience of conditions in the area to which the panel relates and of the problems of people living on low incomes; and
- (c) one member drawn from a panel of persons appearing to the Department to represent work-people.

2. Panels of the kinds mentioned in paragraph 1 shall be constituted by the Department for the whole of Northern Ireland and each panel shall relate to such area as the Department thinks fit, and be composed of such persons as it sees fit to appoint.

3. Before appointing members to either of the panels, the Department may take into consideration recommendations from such organisations or persons as it considers appropriate.

4. A tribunal shall have jurisdiction in respect of the area to which the panels from whose members it is constituted relate.

5. So far as is practicable—

- (a) each member of a panel shall be summoned in turn to serve on a tribunal;
- (b) where several persons are selected to act as chairmen for a particular area they shall be invited in turn to preside over a tribunal;
- (c) at least one of the members of the tribunal shall be of the same sex as the claimant.

6. The Department shall pay to the chairman of a tribunal such remuneration, and to any member thereof such travelling and other allowances (including compensation for the loss of remunerative time), as it may, with the consent of the Department of the Civil Service, determine.

7.—(1) The Department shall assign to serve the tribunals having jurisdiction in respect of each area a clerk and such other officers and servants and shall pay them such salaries or fees and such allowances as it may, with the consent of the Department of the Civil Service, determine.

(2) Before assigning a clerk under this paragraph the Department shall, if one or more Senior Chairmen have been appointed under paragraph 11, consult him or such one of them as the Department considers appropriate.

(3) The Department shall consider any representations made to it by a Senior Chairman as to the desirability of terminating the assignment of a clerk and shall take such action, if any, as the Department considers appropriate.

8. A person appointed to act as a member of a panel or as a chairman shall hold and vacate office in accordance with the terms of his appointment.

9.—(1) The Department may make rules—

- (a) as to the procedure of tribunals and the procedure in connection with the bringing of matters before a tribunal, and as to the time within which matters may be brought before tribunals;
- (b) as to the payment by the Department to persons attending proceedings before tribunals of travelling and other allowances (including compensation for loss of remunerative time);
- (c) for authorising proceedings notwithstanding that the members of the tribunal are not all present.

(2) The power to make rules as to procedure under this paragraph includes power to make provision as to the representation of one person in any proceedings by another person.

(3) In any case where proceedings take place in accordance with rules made under sub-paragraph (1) (c) the tribunal shall, notwithstanding anything in this Order, be deemed to be properly constituted, and the chairman shall have a second or casting vote.

10. Notwithstanding the preceding provisions of this Schedule—

- (a) a tribunal shall have jurisdiction in respect of such area as the Department may direct; and
- (b) the chairman and other members may, if the Department so directs, be drawn from among those selected or appointed in relation to different areas.

#### *Senior Chairmen*

11.—(1) The Lord Chancellor may appoint persons who are barristers or solicitors of not less than 7 years' standing to act in relation to the tribunals as Senior Chairmen.

(2) A person appointed under this paragraph to act as a Senior Chairman shall have such functions in relation to the tribunals, including the function of acting as chairman of a tribunal, as the Department may from time to time assign to him.

(3) Paragraph 5 (b) shall not apply in relation to a Senior Chairman acting as chairman of a tribunal by virtue of sub-paragraph (2).

(4) A Senior Chairman shall hold and vacate office in accordance with the terms of his appointment.

(5) The Department may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of Senior Chairmen or any of them as, with the consent of the Department of the Civil Service, it may determine.

(6) Senior Chairmen shall have such officers and staff as the Department may, with the consent of the Department of the Civil Service as to numbers and as to remuneration and other terms and conditions of service, see fit to appoint.

## Article 16.

## SCHEDULE 3

### MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

#### *The Family Income Supplements Act (Northern Ireland) 1971 (c. 8)*

1. In section 7 (2) (appeals to Appeal Tribunals) for the words "be final" substitute the words "subject to Article 20A of the Supplementary Benefits (Northern Ireland) Order 1977 (appeal from Appeal Tribunals) be final.

Nothing in this subsection shall make a finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of a further decision."

2. In section 10 (2) (h) (review of determinations by the Supplementary Benefits Commission and Appeal Tribunals) at the end add the words "or by a National Insurance Commissioner or Tribunal of Commissioners by virtue of rules under Article 20A of the Supplementary Benefits (Northern Ireland) Order 1977".

#### *The Social Security (Northern Ireland) Act 1975 (c. 15)*

3. In section 4 (6) (Class 1 contributions) after the words "regulations under" insert the words "subsection (7) or".

4. In section 13 (5) (calculation of earnings factors) after the words "any tax year" insert the words "(including earnings factors as increased by any order under Article 23 of the Pensions Order)".

5. In section 14 (6) (disregard of certain increases in computing unemployment and sickness benefit) after paragraph (a) insert the following paragraph—

"(aa) any increase under section 120 of this Act which corresponds to an increase under section 126A of the Social Security Act 1975;"

6. In section 15 (4) (disregard of certain increases in computing invalidity pension) after paragraph (a) insert the following paragraph—

"(aa) any increase under section 120 of this Act which corresponds to an increase under section 126A of the Social Security Act 1975; and".

7. In section 110 (1) (review of decision of medical board or medical appeal tribunal) for the words from "in consequence of" to the end substitute the words "in ignorance of a material fact or was based on a mistake as to a material fact".

8. In section 119—

(a) at the end of subsection (3) (b) add the words "or out of a requirement to repay any amount by virtue of subsection (2A)";

(b) in subsection (4)—

- (i) in paragraph (c) for the words “subsections (1) and (2)” substitute the words “subsections (1) to (2A)”;
- (ii) in paragraph (cc) (inserted by Schedule 5 to the Pensions Order) the words “by way of a mobility allowance” are hereby repealed; and
- (iii) in paragraph (d) after the words “subsection (1)” insert the words “or (2A)”.

9. In section 120 for the words from “or 124” to “benefits)” substitute the words “, 124 or 126A of the Social Security Act 1975”.

10. In paragraph 8 of Schedule 3 (satisfaction of contribution conditions) for sub-paragraph (3) substitute the following sub-paragraph—

“(3) For the purposes of satisfaction by the contributor concerned of paragraph (b) of the first contribution condition for the unemployment benefit, sickness benefit, a maternity grant or a maternity allowance, or of paragraph (b) of the contribution condition for a widow’s allowance, all earnings factors derived from his contributions of a relevant class actually paid by him before the relevant time may be aggregated and that aggregate sum shall be treated as his earnings factor for the last complete year before the beginning of the benefit year in which the relevant time falls.”.

11. In paragraph 9 of Part I of Schedule 4 (as amended by paragraph 42 of Schedule 5 to the Pensions Order) for the words “£6.90” substitute the words “£11.70”.

12. In Schedule 17 in the definition of “Up-rating order” after the words “section 124” insert the words “or 126A”.

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

13. In Part III of Schedule 1 (offices the holders of which are disqualified) at the end of the entry beginning “Chairman of an Appeal Tribunal” add the words “or Senior Chairman in relation to such a tribunal”.

*The Social Security Pensions (Northern Ireland) Order 1975  
(S.I. 1975/1503 (N.I. 15))*

14. In Article 2 (3) for the words “Article 69” substitute the words “Articles 69 and 69A”.

15. In Articles 8 (3) and 37 (4) the words from “and rounding” to the end are hereby repealed.

16. In Article 8 (4) (increase of earnings factors) for the words “any order or orders that have come into force under Article 23” substitute the words “the last order under Article 23 to come into force”.

17. In Article 13 (application of earnings rule) after the words “the additional component” insert the words “, of any increase so far as attributable to any additional component or to any increase in a guaranteed minimum pension”.

18. In Article 36 (6) (increase of earnings) for the words “any order or orders coming into force under Article 23” substitute the words “the last order under Article 23 to come into force”.

19. In Article 37 (earner’s guaranteed minimum)—

- (a) in paragraph (5) (increase of earnings factors) for the words “any order or orders that have come into force under Article 23” substitute the words “the last order under Article 23 to come into force”;
- (b) in paragraph (7) (early retirement) for the words “any order or orders that come into force under Article 23” substitute the words “the last order under Article 23 to come into force”;

(c) at the end add the following paragraph—

“(10) Where sums are payable to a person by virtue of paragraph (6) (including such sums payable by virtue of Article 38 (3)) during a period ending with the date on which he became entitled to a Category A or Category B retirement pension, then, for the purpose of determining the amount of his Category A or Category B retirement pension, orders made during that period under section 120 of the principal Act corresponding to orders made under section 126A of the Social Security Act 1975 shall be deemed to have come into force (consecutively in the order in which they were made) on the date on which he became entitled to that pension.”

20. In Article 39 (3) (earner's salary as factor of widow's pension) for the words “any order or orders coming into force under Article 23” substitute the words “the last order under Article 23 to come into force”.

21. In Article 69 (7) after the words “this Article” (in the two places where they occur after the definition of “lump sum”) insert in each case the words “and Article 69A”.

22. In paragraph 4 of Schedule 1 (deferred retirement) at the end of both sub-paragraph (1) and sub-paragraph (2) add the words “under this Schedule apart from paragraph 4A”.

*The Industrial Relations (Northern Ireland) Order 1976*  
(S.I. 1976/1043 (N.I. 16))

23. In Article 72—

(a) in paragraph (2) (b) for the words “and (3)” substitute the words “to (4)”;

(b) in paragraph (4) (a) for the words “and (2)” substitute the words “(2) and (2A)”.

*The Supplementary Benefits (Northern Ireland) Order 1977*  
(S.I. 1977/2156 (N.I. 27))

24. In Article 4 (1) (determination of benefit, subject to provisions of Article 20 as to appeals) for the words “Article 20” substitute the words “Articles 20 and 20A”.

25. In Article 19 (2) (d) (review of determinations), at the end add the words “or by a National Insurance Commissioner or Tribunal of Commissioners by virtue of rules under Article 20A”.

26. In Article 20 (appeals to Appeal Tribunals) in paragraph (3) the words from “and, subject to” to the end are hereby repealed and for paragraphs (4) to (7) substitute the following paragraph—

“(4) Subject to Article 20A, any determination of an Appeal Tribunal shall be final; but nothing in this Article shall make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.”.

27. In paragraph 8 of Schedule 2 (increase of amount of award on appeal) in sub-paragraph (a) after the words “Article 20” insert the words “or 20A”.

*The Social Security (Miscellaneous Provisions)*  
(Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11))

28. The following provisions are hereby repealed, namely—

(a) Article 4 (3) and (4);

(b) Article 6 (2); and

(c) Article 10 (2).

*The Supplementary Benefit (Appeal Tribunal) Rules*  
(Northern Ireland) 1971 (S.R. & O. (N.I.) 1971 No. 162)

29. Rule 2 (tenure of office of members of Appeal Tribunals) is hereby revoked.



*The Social Security (Mobility Allowance) (Vehicle Scheme Beneficiaries)  
Regulations (Northern Ireland) 1977 (S.R. 1977 No. 242)*

30. In Regulation 6 for paragraph (a) substitute the following paragraph—

“(a) section 37A (4) of the principal Act shall have effect as though the words  
“or over the age of 75” and paragraph (aa) were omitted;”.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes provision for Northern Ireland corresponding to certain provisions contained in the Social Security Act 1979.