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## STATUTORY INSTRUMENTS

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# 1998 No. 1506

## The Social Security (Northern Ireland) Order 1998

### PART V

#### MISCELLANEOUS AND SUPPLEMENTAL

##### **Pilot schemes**

**73.**—(1) Any regulations to which this paragraph applies may be made so as to have effect for a specified period not exceeding 12 months.

(2) Any regulations which, by virtue of paragraph (1), are to have effect for a limited period are referred to in this Article as “a pilot scheme”.

(3) A pilot scheme may provide that its provisions are to apply only in relation to—

- (a) one or more specified areas or localities;
- (b) one or more specified classes of person;
- (c) persons selected—
  - (i) by reference to prescribed criteria; or
  - (ii) on a sampling basis.

(4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same, or similar, provision (apart from the specified period) to that made by the previous scheme.

(6) In so far as a pilot scheme would, apart from this paragraph, have the effect of—

- (a) treating as capable of work any person who would not otherwise be so treated; or
- (b) reducing the total amount of benefit that would otherwise be payable to any person,

it shall not apply in relation to that person.

(7) Paragraph (1) applies to—

- (a) regulations made under section 167D of the Contributions and Benefits Act (incapacity for work: persons to be treated as incapable or capable of work); and
- (b) in so far as they are consequential on or supplementary to any such regulations, regulations made under any of the provisions mentioned in paragraph (8).

(8) The provisions are—

- (a) subsection (5)(a) of section 22 of the Contributions and Benefits Act (earnings factors);
- (b) section 30C of that Act (incapacity benefit: days and periods of incapacity for work);

*Sub#para. (c) rep. by 1999 NI 11*

- (d) subsection (1)(e) of section 123 of that Act (income support) and, so far as relating to income support, subsection (1) of section 131 of that Act (the applicable amount);
- (e) Part XIIA of that Act (incapacity for work);

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(f) section 59A of the Administration Act and Article 31 (incapacity for work).

### Regulations and orders

74.—<sup>F1</sup>(1) Subject to [<sup>F2</sup>paragraph (2)] [<sup>F3</sup>paragraphs (2) and (2A)] and Article 15(13), regulations under this Order 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.

<sup>F1</sup>[<sup>F4</sup>(2A) Paragraph (1) has effect subject to any provision providing for regulations to be made by the Treasury or the Commissioners of Inland Revenue.

(2B) Powers of the Treasury or the Commissioners of Inland Revenue to make regulations under this Order are exercisable by statutory instrument.]

(3) Where a power under this Order to make regulations or an order 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.

(4) Powers to make regulations for the purposes of any one provision of this Order are without prejudice to powers to make regulations for the purposes of any other provision.

(5) Without prejudice to any specific provision in this Order, a power conferred by this Order to make regulations includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations to be expedient for the purposes of those regulations.

[<sup>F5</sup>(5A) The provision referred to in paragraph (5) includes, in a case where regulations under this Order 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 paragraph (5A), references in sections 1(4) and (5) and 2(5) of the Electronic Communications Act (Northern Ireland) 2001 to an order under section 2 of that Act are to be read as references to regulations under this Order; 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 in this Order, a power conferred by any provision of this Order to make regulations includes power to provide for a person to exercise a discretion in dealing with any matter.

<sup>F1</sup>(7) Any power conferred by this Order to make regulations relating to housing benefit shall include power to make different provision for different areas.

(8) In this Article “Commissioner” has the same meaning as in section 167(1) of the Administration Act.

**F1** mod. by SI 2005/191

**F2** Words in art. 74(1) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\)](#), ss. 51, 61, [Sch. 4 para. 17\(1\)\(2\)](#); S.I. 2003/392, [art. 2](#) (with [art. 3](#))

**F3** Words in art. 74(1) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\)](#), ss. 51, 61, [Sch. 4 para. 17\(1\)\(2\)](#); S.I. 2003/392, [art. 2](#) (with [art. 3](#))

**F4** Art. 74(2A)(2B) inserted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\)](#), ss. 51, 61, [Sch. 4 para. 17\(1\)\(3\)](#); S.I. 2003/392, [art. 2](#) (with [art. 3](#))

**F5** Art. 74(5A)(5B) inserted (2.5.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [108\(2\)](#); S.R. 2016/215, art. 2(6)(a)

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

- C1** Art. 74(3)-(6) applied (prosp.) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 7\(3\), 36\(2\)](#)  
**C2** Art. 74(3)-(6) applied (prosp.) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\), ss. 9\(6\), 36\(2\)](#)

#### Assembly, etc. control of regulations

**75.**—<sup>F6</sup>(1) [<sup>F7</sup>The regulations to which this paragraph applies] [<sup>F8</sup>Where regulations specified in paragraph (2) are made by the Department, they] shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) 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 been approved by a resolution of the Assembly.

[<sup>F9</sup>(1A) Where regulations specified in paragraph (2) fall to be made by the Treasury or the Commissioners of Inland Revenue they shall not be made unless a draft of the instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.]

(2) [<sup>F10</sup>Paragraph (1) applies to] [<sup>F11</sup>The regulations specified in this paragraph are] regulations (whether made alone or with other regulations) under—

- (a) Article 8, 13(2) [<sup>F12</sup>or (3A)] , 68 or 73; or
- (b) paragraph 12 of Schedule 1, paragraph 9 of Schedule 2 or paragraph 2 of Schedule 4.

<sup>F6</sup>(3) Regulations made under this Order by the Department, other than regulations [<sup>F13</sup>to which paragraph (1) applies] [<sup>F14</sup>specified in paragraph (2)], shall be subject to negative resolution.

[<sup>F15</sup>(3A) Regulations made under this Order by the Treasury or the Commissioners of Inland Revenue, other than regulations specified in paragraph (2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(4) Regulations made under this Order by the [<sup>F16</sup>Department of Justice shall be subject to negative resolution].

**F6** mod. by SI 2005/191

**F7** Words in art. 75(1) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(2\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

**F8** Words in art. 75(1) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(2\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

**F9** Art. 75(1A) inserted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(3\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

**F10** Words in art. 75(2) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(4\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

**F11** Words in art. 75(2) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(4\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

**F12** Words in art. 75(2)(a) inserted (17.3.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), arts. 2\(2\), 107\(5\); S.R. 2016/166, art. 2\(a\)](#)

**F13** Words in art. 75(3) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 51, 61, Sch. 4 para. 18\(1\)\(5\); S.I. 2003/392, art. 2 \(with art. 3\)](#)

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- F14** Words in art. 75(3) substituted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\)](#), ss. 51, 61, [Sch. 4 para. 18\(1\)\(5\)](#); S.I. 2003/392, [art. 2](#) (with [art. 3](#))
- F15** Art. 75(3A) inserted (26.2.2003, 1.4.2003, 7.4.2003 for certain purposes and otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\)](#), ss. 51, 61, [Sch. 4 para. 18\(1\)\(6\)](#); S.I. 2003/392, [art. 2](#) (with [art. 3](#))
- F16** Words in art. 75(4) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), [Sch. 18 para. 155\(2\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)

## Reports by the Department

76.—<sup>F17</sup>(1) The Department shall prepare, either annually or at such times or intervals as may be prescribed, a report on—

- (a) the standards achieved by the Department in the making of decisions against which an appeal lies to an appeal tribunal constituted under Chapter 1 of Part 2;
  - (b) the standards of advice and assistance provided under Article 138 of the Welfare Reform (Northern Ireland) Order 2015; and
  - (c) the operation of sanctions.
- (1A) For the purposes of paragraph (1)(c) a sanction is—
- (a) the reduction in the amount of an award of universal credit, a jobseeker's allowance, income support or an employment and support allowance on account of a failure by a person to comply with any requirement or any other conduct of a person;
  - (b) the loss of, or reduction in the amount of, any sanctionable benefit under the Social Security Fraud Act (Northern Ireland) 2001.
- (1B) A report under paragraph (1)(c) must contain details of—
- (a) the number of persons affected by sanctions;
  - (b) the periods for which such persons are affected;
  - (c) the reasons for which sanctions are imposed;
  - (d) the benefits or allowances which are reduced or lost.]
- (2) A copy of every such report shall be laid before the Assembly.

- F17** [Art. 76\(1\)-\(1B\)](#) substituted for [art. 76\(1\)](#) (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [125](#); S.R. 2016/46, [art. 3\(4\)\(j\)](#)

## <sup>F18</sup>Transitory provisions

77. Schedule 5 (which contains transitory provisions) shall have effect.

- F18** prosp. rep. by [1998 NI 10](#) but rep. in force on the 29.11.99 in so far as relating to child's special allowance, income support, the social fund and recovery of benefits.

## Article 78—Amendments and repeals

**Status:**

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