
STATUTORY INSTRUMENTS

1999 No. 3147

**The Welfare Reform and Pensions
(Northern Ireland) Order 1999**

PART VI

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

Miscellaneous

Certain overpayments of benefit not to be recoverable

65.—(1) An overpayment to which this Article applies shall not be recoverable from the payee under any provision made by or under Part III of the Administration Act (overpayments and adjustments of benefit).

(2) This Article applies to an overpayment if—

- (a) it is in respect of a qualifying benefit;
- (b) it is referable to a decision given on a review that there has been an alteration in the relevant person's condition, being a decision to which effect is required to be given as from a date earlier than that on which it was given;
- (c) the decision was given before 1st June 1999; and
- (d) the overpayment is not excluded by virtue of paragraph (6).

(3) In paragraph (2)(b) the reference to a decision on a review that there has been an alteration in the relevant person's condition is a reference to a decision so given that that person's physical or mental condition either was at the time when the original decision was given, or has subsequently become, different from that on which that decision was based, with the result—

- (a) that he did not at that time, or (as the case may be) has subsequently ceased to, meet any of the conditions contained in the following provisions of the Contributions and Benefits Act, namely—
 - (i) section 64 (attendance allowance),
 - (ii) section 72(1) or (2) (care component of disability living allowance), and
 - (iii) section 73(1) or (2) (mobility component of that allowance); or
- (b) that he was at that time, or (as the case may be) has subsequently become, capable of work in accordance with regulations made under section 167C(2) of that Act (the all work test).

(4) For the purposes of this Article “qualifying benefit” means—

- (a) attendance allowance;
- (b) disability living allowance;

- (c) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of a component (at any rate) of disability living allowance or in receipt of attendance allowance;
 - (d) incapacity benefit;
 - (e) any benefit (other than incapacity benefit) awarded wholly or partly by reason of a person being (or being treated as being) incapable of work; or
 - (f) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of any benefit falling within sub-paragraph (c), (d) or (e).
- (5) For the purposes of this Article—
- (a) “review” means a review taking place by virtue of section 23(1)(a) or (b), 28(2)(a) or (b) or 33(1)(a) or (b) of the Administration Act;
 - (b) “the relevant person”, in relation to a review, means the person to whose entitlement to a qualifying benefit or to whose incapacity for work the review related; and
 - (c) “the original decision”, in relation to a review, means the decision as to any such entitlement or incapacity to which the review related.
- (6) An overpayment is excluded by virtue of this paragraph if (before or after the making of this Order)—
- (a) the payee has agreed to pay a penalty in respect of the overpayment under section 109A of the Administration Act,
 - (b) the payee has been convicted of any offence (under section 105A or 106(1) or (1A) of that Act or otherwise) in connection with the overpayment, or
 - (c) proceedings have been instituted against the payee for such an offence and the proceedings have not been determined or abandoned.
- (7) Nothing in this Article applies to an overpayment to the extent that it was recovered from the payee (by any means) before 26th February 1999.
- (8) In this Article—
- “benefit” includes any amount included in—
- (a) the applicable amount in relation to an income-related benefit (as defined by section 131(1) of the Contributions and Benefits Act), or
 - (b) the applicable amount in relation to a jobseeker’s allowance (as defined by Article 6(5) of the Jobseekers (Northern Ireland) Order 1995);
- “income-related benefit” has the meaning given by section 122(1) of the Contributions and Benefits Act;
- “overpayment” means an amount of benefit paid in excess of entitlement;
- “the payee”, in relation to an overpayment, means the person to whom that amount was paid.

Child benefit: claimant to state national insurance number

66. In section 11 of the Administration Act (entitlement to child benefit dependent on claim), after subsection (1) there shall be inserted—

“(1A) No person shall be entitled to child benefit unless subsection (1B) below is satisfied in relation to him.

(1B) This subsection is satisfied in relation to a person if—

(a) his claim for child benefit is accompanied by—

- (i) a statement of his national insurance number and information or evidence establishing that that number has been allocated to him; or
 - (ii) information or evidence enabling the national insurance number that has been allocated to him to be ascertained; or
 - (b) he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.
- (1C) Regulations may make provision disapplying subsection (1A) above in the case of—
- (a) prescribed descriptions of persons making claims, or
 - (b) prescribed descriptions of children in respect of whom child benefit is claimed, or in other prescribed circumstances.”.

Welfare benefits: miscellaneous amendments

67. Schedule 8 (which makes minor and consequential amendments of provisions relating to welfare benefits) shall have effect.