STATUTORY INSTRUMENTS

1984 No. 1158 (N.I. 8)

The Health and Social Security (Northern Ireland) Order 1984

- - - - - - *31st July 1984*

PART I N.I.

INTRODUCTORY

Title, commencement and citation N.I.

1.—(1) This Order may be cited as the Health and Social Security (Northern Ireland) Order 1984.

(2) Except as provided by paragraphs (3) and (4) this Order shall come into operation on such day or days as the Head of the Department may by order appoint[F1].

(3) This Part and Articles 4(2), 9, 12(1) and (2), 15 so far as it relates to paragraph 6 or 8 of Schedule 5,[F2]... and 18 shall come into operation on the fourteenth day after the day on which this Order is made.

(4) Articles 10, 13, 15 so far as it relates to paragraphs 3, 5, 7 and 9 of Schedule 5, and 17 so far as it relates to Schedule 10 to the principal Act and Article 40 of the Pensions Order shall come into operation on 26th September 1984.

(5) Part III and Article 17, so far as that Article relates to Part II of Schedule 6 (repeals), may be cited together with the Social Security (Northern Ireland) Acts 1975 to 1982 as the Social Security (Northern Ireland) Acts 1975 to 1984.

F1 partly exercised by SRs 1984/300,333; 1986/169
F2 1986 NI 18

Interpretation N.I.

2.—(1) The Interpretation Act (Northern Ireland) 1954 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 Department" means the Department of Health and Social Services;

"the 1972 Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975;

"the principal Act" means the Social Security (Northern Ireland) Act 1975.

PART II N.I.

HEALTH

Abolition of duty to make arrangements for supply of optical appliances under general ophthalmic services N.I.

3.—(1) In Article 62 of the 1972 Order (arrangements for general ophthalmic services)—

(a) in paragraph (1) (duty of Health and Social Services Boards to make arrangements for general ophthalmic services including the supply by ophthalmic opticians and dispensing opticians of optical appliances), for the words from "ophthalmic", where it first occurs, to "appliances" there shall be substituted the words " and ophthalmic opticians for securing the testing of sight by them ";

(b) in paragraph (2)(d) (regulations conferring right to choose in relation to general ophthalmic services medical practitioner, ophthalmic optician or dispensing optician), the words "and the ophthalmic or dispensing optician who is to supply the appliances" shall cease to have effect.

Para.(2)—Amendments

[F3]Professional remuneration N.I.

4.—(1) In the 1972 Order, after Article 64 and the cross-heading "Supplementary provisions" there shall be inserted the following Article—

"**Regulations as to remuneration for services**

64A.—(1) Regulations shall make provision as to the remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services.

(2) Subject to Article 57 (remuneration of general medical practitioners), remuneration under the regulations may consist of payments by way of —

(a) salary;

(b) fees;

(c) allowances;

(d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services,

and the regulations may provide that the remuneration shall be determined by such authority as may be specified.

(3) The authority referred to in paragraph (2) may be the Department or some other person or persons and is referred to in this Article as a "determining authority."

(4) The determination referred to in paragraph (2) includes a determination in more than one stage and by more than one determining authority.

(5) Regulations under this Article shall provide—

(a) that a determination may be made with respect either to any of the descriptions of services mentioned in paragraph (1) generally or to any category of services falling within such a descripton;

(b) that, before making such a determination, the determining authority shall consult—

(i) a prescribed body established to provide advice in connection with the matters to be determined; or

(ii) an organisation appearing to the Department to be representative of persons to whose remuneration the determination would relate,

or both such a body and such an organisation.

(6) Regulations under this Article may provide—

(a) that a determination such as is mentioned in paragraph (5) shall have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates; and

(b) that any such determination which does not specify such a date shall have effect in relation to remuneration in respect of a period beginning—

(i) if it is required to be published, on the date of publication;

(ii) if it is not so required, on the date on which it is made.

(7) Regulations under this Article may provide—

(a) for determinations of the remuneration of particular persons or descriptions of persons for particular items of service or in particular circumstances;

(b) that a determining authority shall have a discretion, when making a determination by virtue of this paragraph,—

(i) as to the amount of remuneration to be paid; and

(ii) as to the persons to whom and conditions on which it is to be paid; and

(c) that a determination made by virtue of this paragraph may be reivsed—

(i) to correct an error; or

(ii) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.

(8) Regulations under this Article may provide—

(a) that determinations may be made by reference to any of the following—

(i) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or to be fixed or determined, otherwise than by way of a determination under the regulations;

(ii) scales, indicies or other data of any description specified in the regulations; and

(b) that any determination which in accordance with regulations made by virtue of sub-paragraph (a)(ii) falls to be made by reference to a scale or an index or to any other data may be made not only by reference to that index or scale or those data in the form current at the time of the determination but also by reference to the scale, index or data in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.

(9) Any determination under regulations under this Article shall be made after taking into account all the matters which are considered to be relevant by the determining authority and, without prejudice to the generality of this paragraph, such matters may include—

(a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination will relate) in connection with the provision of services of a kind to which the determination will relate;

(b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services;

(c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons;

(d) the extent to which it is desirable to encourage the provision of particular descriptions of services either generally or in particular localities;

(e) the desirability of promoting services which are—

(i) economic and efficient; and

(ii) of an appropriate standard.”.

(2) Any determination in relation to remuneration in respect of general medical services, general dental services, general ophthalmic services or pharmaceutical services which was made at any time before the commencement of paragraph (1) shall be deemed to be validly made if regulations authorising such a determination could have been made had paragraph (1) been in operation at that time.

F3 (prosp.) rep. by 2001 c. 3 (NI)

PART III N.I.

SOCIAL SECURITY

Arts. 5#8 rep. by 1992 c.9

Attendence allowance: daily entitlement N.I.

9.—(1) In this Article—

“the 1975 claims and payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1975;

“the 1977 amendment Regulations” means the Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1977;

“the 1977 claims and payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977;

“the 1980 amendment Regulations” means the Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1980;

“regulation 16A” means regulation 16A of the 1975 claims and payments Regulations, which was added by regulation 9 of the 1977 amendment Regulations;

“regulation 18” means regulation 18 of the 1977 claims and payments Regulations, both as originally made and as substituted by regulation 5(2) of the 1980 amendment Regulations;

“appropriate pay day” means a day for payment under regulation 15(7) of the 1975 claims and payments Regulations or regulation 16(7) of the 1977 claims and payments Regulations of weekly sums on account of an attendance allowance; and

“13 week period” means the period mentioned in regulation 16A or regulation 18.

(2) Regulation 16A and regulation 18 shall be deemed always to have had effect as if—

(a) the words “ Notwithstanding anything in the foregoing provisions of these regulations ” were inserted at the beginning;

(b) any reference to attendance allowance being payable for a period were a reference to attendance allowance which would have been payable for that period but for—

(i) regulation 15(9) or (10) of the 1975 claims and payments Regulations; or

(ii) regulation 16(10) or (11) of the 1977 claims and payments Regulations; and

(c) in relation to any case where a 13 week period does not end on an appropriate pay day, any reference to a 13 week period in paragraph (1) of either regulation 16A or regulation 18 were a reference to that period together with any days after its end but before the next appropriate pay day.

Arts. 10#12 rep. by 1992 c.9

Arts. 13,14 rep. by 1993 c.49

Art. 15—Amendments

Art. 16 rep. by 1986 NI 18

PART IV N.I.

SUPPLEMENTARY

Article 17—Repeals

Transitional N.I.

18.—(1) The department may by regulations make such transitional provision or saving as the Department considers necessary or expedient in connection with the commencement of any provision of this Order or the operation of any statutory provision which is repealed or amended by a provision of this Order during any period when the repeal or amendment is not wholly in force.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may provide that references to dispensing opticians in the 1972 Order shall be treated as including suppliers of optical appliances who are not dispensing opticians as defined in that Order.

(3) Regulations under this Article containing any such provisions as is mentioned in paragraph (2) may also make such incidential or supplemental provision as the Department considered appropriate.

(4) Regulations under this Article shall be subject to negative resolution.

N.I.

Schedule 1 — Amendments

N.I.

Schedules 2,3 rep. by 1992 c.9

N.I.

Schedule 4 rep. by 1993 c.49

N.I.

Schedule 5 — Amendments

N.I.

Schedule 6—Repeals

Changes to legislation:
There are currently no known outstanding effects for the The Health and Social Security (Northern Ireland) Order 1984.