
STATUTORY INSTRUMENTS

1986 No. 1888 (N.I. 18)

NORTHERN IRELAND

The Social Security (Northern Ireland) Order 1986

Made

5th November 1986

Laid before Parliament

18th November 1986

Coming into operation in accordance with Article I



LONDON

HER MAJESTY'S STATIONERY OFFICE

1986

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(Northern Ireland) Order 1986**

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At the Court at Buckingham Palace, the 5th day of November 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Social Security Act 1986:

1986 c. 50

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 81 of the said Act of 1986) 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:—

1974 c. 28

PART I

INTRODUCTORY

Title, citation and commencement

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1986.

(2) This Order may be cited together with the Social Security (Northern Ireland) Acts 1975 to 1985 as the Social Security (Northern Ireland) Acts 1975 to 1986.

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(3) Subject to the following provisions of this Article, this Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(4) Article 53 (adjudication) (including Schedule 5) shall come into operation on such day or days as the Head of the Department with the consent of the Lord Chancellor may by order appoint.

1954 c. 33 (N.I.) (5) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, if different days are appointed under paragraph (3) for the purposes of Part IV in relation to different descriptions of persons, those descriptions of persons may be determined by any criteria that appear to the Head of the Department to be appropriate.

(6) If an order under paragraph (3) brings paragraph 8 of Schedule 3 into operation on the same day as Article 37, the former shall be deemed to have come into operation immediately before the latter.

(7) The following provisions of this Order shall come into operation on the fourteenth day after the day on which this Order is made—

- this Article and Article 2;
- Article 31(3) and (4) (housing benefit finance);
- Article 38 (invalid care allowance for women);
- Article 39(4) (abolition of maternity grant);
- Article 46 (guardian's allowance—adoption);
- Article 62 (consultations on subordinate legislation);
- Article 64 (annual up-rating of benefits);
- Article 65 (effect of alteration of rates of benefit);
- Article 71 (child benefit in respect of children educated otherwise than at educational establishments);
- Article 72(4) and (5) (entitlement to mobility allowance—general);
- Article 73 (entitlement of certain women to mobility allowance);
- Article 75 (National Insurance contributions);
- Article 77 (amendments relating to forfeiture of benefits);
- Article 81 (orders and regulations (general provisions));
- Article 82 (financial provision);
- Article 83(1) (minor and consequential amendments) so far as it relates to paragraphs 13, 14(3), 17(1) and (2), 18, 24(b), (c) and (d)(ii) 64, 73 and 74 of Schedule 9;
- Article 83(2) (repeals) so far as it relates to—

- (a) section 37(3) of the principal Act and the reference to paragraph (b) of that subsection in Article 18(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977;

1977 NI 11

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- (b) Article 53D(2) and (3) of, and paragraph 12 of Schedule 1A to, the Pensions Order;
 - (c) section 10 of the Social Security Act 1980; and 1980 c. 30
 - (d) Article 4 of the Housing Benefits (Northern Ireland) Order 1983; and 1983 NI 14
- Article 84 (transitional).

Interpretation

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. 1954 c. 33 (N.I.)

(2) In this Order—

“applicable amount” shall be construed in accordance with Part III;

“average salary benefits” means benefits the rate or amount of which is calculated by reference to the average salary of a member of a pension scheme over the period of service on which the benefits are based;

“the benefit Acts” means—

(a) the Social Security Act 1973; 1973 c. 38

(b) the Social Security (Northern Ireland) Acts 1975 to 1986;

(c) the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975; 1975 c. 17

(d) the Child Benefit (Northern Ireland) Order 1975; 1975 NI 16

“contract of service” has the same meaning as in the principal Act;

“the Department” means the Department of Health and Social Services;

“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“employed earner” has the same meaning as in the principal Act;

“employee” means a person gainfully employed in Northern Ireland either under a contract of service or in an office (including an elective office) with emoluments chargeable to income tax under Schedule E;

“employer” means—

(a) in the case of an employed earner employed under a contract of service, his employer;

(b) in the case of an employed earner employed in an office with emoluments—

(i) such person as may be prescribed in relation to that office; or

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- (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;
- “housing benefit scheme” shall be construed in accordance with Part III;
- “income-related benefit” shall be construed in accordance with Part III;
- 1982 c. 50 “insurance company” has the meaning assigned to it by section 96(1) of the Insurance Companies Act 1982;
- “long-term benefit” has the meaning assigned to it by Schedule 17 to the principal Act;
- “minimum contributions” shall be construed in accordance with Part II;
- “modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;
- “money purchase benefits”, in relation to a member of a personal or occupational pension scheme or the widow or widower of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which are not average salary benefits;
- “occupational pension scheme” has the same meaning as in Article 2(2) of the Pensions Order;
- 1975 NI 15 “the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975;
- “personal pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employed earners who have made arrangements with the trustees or managers of the scheme for them to become members of the scheme;
- “prescribed” means specified in or determined in accordance with regulations;
- “primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in the principal Act;
- 1975 c. 15 “the principal Act” means the Social Security (Northern Ireland) Act 1975;
- “protected rights” shall be construed in accordance with Schedule 1;
- “qualifying benefit” has the meaning assigned to it by Schedule 6;
- “rate rebate”, “rent rebate” and “rent allowance” shall be construed in accordance with Article 29;

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- “rates” has the same meaning as in the Rates (Northern Ireland) Order 1977; 1977 NI 28
- “regulations” means regulations made by the Department under this Order;
- “social fund payment” means a payment under Part IV;
- “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954; 1954 c. 33 (N.I.)
- “tax-exemption” and “tax-approval” mean respectively exemption from tax and approval of the Inland Revenue in either case under any such provision of the Income Tax Acts as may be prescribed;
- “tax year” means the 12 months beginning with 6th April in any year;
- “trade dispute” has the same meaning as in the principal Act;
- “war disablement pension” means—
- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, or Part VII or section 151 of the Reserve Forces Act 1980; 1917 c. 51
1939 c. 82
1939 c. 83
1947 c. 19
1980 c. 9
 - (b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which subsection (1) of section 365 of the Income and Corporation Taxes Act 1970 applies; 1970 c. 10
- “war widow’s pension” means any widow’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the preceding definition or a pension or allowance for a widow granted under any scheme mentioned in subsection (2)(e) of the said section 365.
- (3) Expressions used in Part II and in the Pensions Order have the same meanings in that Part as they have in that Order.
- (4) In this Order—
- (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
 - (b) references to Northern Ireland include references to the territorial waters of the United Kingdom adjacent to Northern Ireland.

PART II

PENSIONS

Personal pension schemes

Minimum contributions to personal pension schemes

3.—(1) Subject to the following provisions of this Part, the Department shall pay, except in such circumstances as may be prescribed, minimum contributions in respect of an employed earner for any period during which the earner—

- (a) is over the age of 16 but has not attained pensionable age;
- (b) is not a married woman or widow who has made an election which is still operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate; and
- (c) is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.

(2) Regulations may make provision as to the manner in which, and time at which or period within which, minimum contributions are to be paid.

(3) Subject to paragraph (4), the Department shall pay minimum contributions in respect of an earner to the trustees or managers of the earner's chosen scheme.

(4) In such circumstances as may be prescribed the Department shall pay minimum contributions to a prescribed person.

(5) Where any of the conditions mentioned in paragraph (1) ceases to be satisfied in the case of an earner in respect of whom the Department is required to pay minimum contributions, the duty of the Department to pay them shall cease as from a date determined in accordance with regulations.

(6) If the Department pays an amount by way of minimum contributions which the Department is not required to pay, the Department may recover it from the person to whom the Department paid it or from any person in respect of whom the Department paid it.

(7) If the Department pays in respect of an earner an amount by way of minimum contributions which the Department is required to pay, but does not pay it to the trustees or managers of the earner's chosen scheme, the Department may recover it from the person to whom the Department paid it or from the earner.

(8) A personal pension scheme is an appropriate scheme if there is in force a certificate (in this Order referred to as an "appropriate scheme certificate") issued by the Occupational Pensions Board in accordance with Article 4 that it is such a scheme.

(9) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the Depart-

ment, in such manner and form and with such supporting evidence as may be prescribed—

- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive minimum contributions in respect of him,

that scheme is the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner's chosen scheme.

(10) Either an earner or the trustees or managers of a scheme may cancel a notice under paragraph (9) by giving notice to that effect to the Department at such time and in such manner and form as may be prescribed.

(11) Where a notice under paragraph (10) is given, the scheme ceases to be the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice.

Appropriate schemes

4.—(1) Regulations shall provide—

- (a) for the issue of appropriate scheme certificates by the Occupational Pensions Board;
- (b) for the cancellation, variation or surrender of any such certificate, or the issue of an amended certificate, on any relevant change of circumstances; and
- (c) that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the Board.

(2) A scheme can be an appropriate scheme only if the requirements imposed by or by virtue of Schedule 1 are satisfied in its case.

(3) An appropriate scheme certificate may be withheld or cancelled by the Board if they consider that there are circumstances which make it inexpedient that it should be or continue to be an appropriate scheme, notwithstanding that they would otherwise issue such a certificate or not cancel such a certificate.

(4) Where by or by virtue of any provision of Schedule 1 a scheme's being an appropriate scheme depends on the satisfaction of a particular condition, the scheme's continuing to be an appropriate scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied that shall be a ground (without prejudice to any other) for the cancellation or variation of an appropriate scheme certificate.

(5) Except in prescribed circumstances, no appropriate scheme

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certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.

(6) An appropriate scheme certificate for the time being in force in relation to a scheme shall be conclusive that the scheme is an appropriate scheme.

(7) Every assignment of or charge on and every agreement to assign or charge protected rights or payments giving effect to protected rights shall be void.

(8) On the bankruptcy of a person who is entitled to protected rights or a payment giving effect to protected rights, any protected rights or payment the assignment of which is or would be made void by paragraph (7) shall not pass to any trustee or person acting on behalf of his creditors.

Amount of minimum contributions

5.—(1) Subject to paragraph (2), in relation to any tax week falling within a period for which the Department is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be the aggregate of—

- (a) the rebate percentage of so much of any earnings paid to or for the benefit of the earner with respect to any employment which is not contracted-out employment in relation to him as exceeds the lower earnings limit but does not exceed the upper earnings limit; and
- (b) where the tax week ends before 6th April 1993, 2 per cent. of any such earnings or, if 2 per cent. of any such earnings is less than £1.00 and the prescribed person applies within such time, in such form and manner and with such supporting evidence as may be prescribed, £1.00.

(2) In relation to earnings paid with respect to any such employment as may be prescribed, paragraph (1) shall have effect as if the words “the aggregate of” and sub-paragraph (b) and the word “and” immediately preceding it were omitted.

(3) In paragraph (1)—

“employment” means employed earner’s employment; and

“rebate percentage” means the percentage arrived at by adding—

- (a) the percentage by which for the time being under Article 29(2) of the Pensions Order the contracted-out percentage of primary Class 1 contributions is less than the normal percentage; and
- (b) the percentage by which for the time being under that paragraph the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.

(4) The references to the upper and lower earnings limits in paragraph (1)(a) are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the principal Act.

(5) Regulations may provide—

- (a) that earnings shall be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
- (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
- (d) for this Article to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period and as if in any case so prescribed for the references to £1.00 in paragraph (1)(b) there were substituted references to such other sum as may be prescribed.

Effect of payment of minimum contributions on rate of certain benefits

6.—(1) Where for any period minimum contributions have been paid in respect of an earner, sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31 of the Pensions Order shall have effect—

- (a) in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;
- (b) in prescribed circumstances, in relation to any widow or widower of the earner—
 - (i) if the earner died after reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under sub-paragraph (a); and
 - (ii) if the earner died before reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.

(2) The power to prescribe a rate conferred by paragraph (1)(a) includes power to prescribe a nil rate.

Personal pension protected rights premium

7.—(1) In the case of a personal pension scheme which is or has

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been an appropriate scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be an appropriate scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.

(2) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise) and the Board either—

(a) have withdrawn their approval of previously approved arrangements relating to it; or

(b) have declined to approve arrangements relating to it,

the Board may issue a certificate to that effect.

(3) A certificate issued under paragraph (2)(a) or (b) shall be cancelled by the Board if they subsequently approve the arrangements.

(4) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances—

(a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements; and

(b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements.

(5) A premium under paragraph (4) may be referred to as a “personal pension protected rights premium”.

(6) If at any time regulations are in force by virtue of which Article 53C of, or paragraph 16 of Schedule 1A to, the Pensions Order has effect in relation to personal pension schemes, paragraph (4)(a) shall have effect as if after the word “arrangements” there were inserted the words “and have not been disposed of so as to discharge the trustees or managers of the scheme under Article 53C of, or paragraph 16 of Schedule 1A to, the Pensions Order”.

(7) A personal pension protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Department.

(8) The amount of a personal pension protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.

(9) Where a personal pension protected rights premium is paid in respect of a person—

(a) the rights whose cash equivalent is included in the premium shall be extinguished; and

(b) Article 6 of this Order and Article 31(2) and (2A) of the Pensions Order shall have effect in relation to that person and a widow or widower of that person as if any guaranteed

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minimum pension to which that person or any such widow or widower is treated as entitled under those provisions, and which derives from the minimum contributions, minimum payments (within the meaning of the Pensions Order) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.

(10) In paragraph (9) “the appropriate percentage” means, subject to the following provisions of this Article,

$$\frac{X}{Y} \times 100,$$

where—

- (a) X = the amount of the premium together with, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—
 - (i) the cash equivalent, calculated and verified in the prescribed manner and paid to the Department within the prescribed period, of any other rights which he has under the scheme and specifies in the notice; and
 - (ii) the amount of any voluntary contribution paid to the Department within the prescribed period by, or in respect of, the person concerned; and
- (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in paragraph (9).

(11) If the appropriate percentage, as calculated under paragraph (10), would fall between two whole numbers, it is to be taken to be the lower number.

(12) If it would be over 100, it is to be taken to be 100.

(13) The remainder after the reduction for which paragraph (9) provides—

- (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence; and
- (b) if it would be less than a prescribed amount, is to be treated as nil.

(14) The power to make regulations conferred by paragraphs (8) and (10) includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—

- (a) by prescribed persons;
- (b) by persons with prescribed professional qualifications or experience; or
- (c) by persons approved by the Department,

and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.

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(15) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Department, and in calculating and certifying it the Department—

- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables; and
- (b) may make such adjustments as it thinks necessary for avoiding fractional amounts.

Occupational pension schemes

Money purchase contracted-out schemes

8. Schedule 2 shall have effect to make amendments of the Pensions Order in relation to the contracting-out of schemes which provide money purchase benefits.

Schemes becoming contracted-out between 1986 and 1993

9.—(1) Subject to paragraph (3) and except in such cases as may be prescribed, where an occupational pension scheme becomes a contracted-out scheme under Part IV of the Pensions Order during the period beginning on 1st January 1986 and ending on 5th April 1993, having not previously been contracted-out during any part of that period, the Department shall make in relation to any tax week falling within the period beginning on 6th April 1988 and ending on 5th April 1993 a payment under this Article in respect of each earner who is in employment which—

- (a) is contracted-out by reference to the scheme during that tax week; and
- (b) has not previously been contracted-out employment by reference to any other scheme during any part of the period beginning on 1st January 1986 and ending on 5th April 1993.

(2) The Department shall make a payment under this Article to the trustees or managers of the scheme except that in such circumstances as may be prescribed the Department shall make such a payment to a prescribed person.

(3) A payment under this Article shall not be made unless the prescribed person makes a claim for it in such manner and form, and at such time or within such period, as may be prescribed.

(4) The amount of a payment under this Article in respect of a tax week is—

- (a) 2 per cent. of so much of any earnings paid to or for the benefit of the earner in respect of the employment which is contracted-out by reference to the scheme in the tax week as exceeds the lower earnings limit for that week but does not exceed the upper earnings limit for it; or

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(b) if 2 per cent. of any such earnings is less than £1.00, £1.00.

(5) The references to the upper and lower earnings limits in paragraph (4) are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the principal Act.

(6) Regulations may make provision—

- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under this Article are to be made in respect of them;
- (b) for the adjustment of amounts which would otherwise be the amounts of payments under this Article so as to avoid the payment of fractional amounts;
- (c) for the intervals at which, for the purposes of payments under this Article, payments of earnings are to be treated as made;
- (d) for this Article to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period and as if in any case so prescribed for the references to £1.00 in paragraph (4)(b) there were substituted references to such other sum as may be prescribed; and
- (e) as to the manner in which, and time at which or period within which, payments under this Article are to be made.

(7) Where in the case of a scheme a payment has been made under this Article in relation to an earner—

- (a) if a premium is paid under Article 44 of the Pensions Order in relation to him, the amount of the premium shall be increased by the amount of the payment; and
- (b) if a premium is paid under Article 46 or 46A of that Order in relation to him, the amount of the premium shall be increased by the amount of the payment and by a further amount representing interest on the payment and calculated in accordance with regulations.

(8) If the Department makes a payment under this Article which the Department is not required to make, the Department may recover the amount of the payment from the person to whom the Department paid it, or from any person in respect of whom the Department paid it.

(9) If the Department makes in respect of an earner a payment under this Article which the Department is required to make, but does not make it to the trustees or managers to whom the Department is required to make it, the Department may recover the amount of the payment from the person to whom the Department paid it or from the earner.

Abolition of requirement relating to requisite benefits

10. The requirement of the Pensions Order that for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide requisite benefits shall cease except so far as it relates to guaranteed minimum pensions and except to that extent shall be treated for the purposes of Article 51 of that Order (requirement of consent of Occupational Pensions Board to alterations of rules of schemes) as if it had never existed.

Guaranteed minimum pensions

11.—(1) The following paragraph shall be substituted for paragraph (3) of Article 37 of the Pensions Order (earner's guaranteed minimum)—

“(3) In paragraph (2) “the appropriate percentage” means—

(a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987–88—

(i) if the earner was not more than 20 years under pensionable age on 6th April 1978, $1\frac{1}{4}$ per cent.;

(ii) in any other case $\frac{25}{N}$ per cent.;

(b) in respect of the earner's earnings factors for the tax year 1988–89 and for subsequent tax years—

(i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;

(ii) in any other case $\frac{20}{N}$ per cent.;

where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978; and “derived” means derived in accordance with the rules to be embodied in regulations.”.

(2) The following paragraphs shall be inserted after paragraph (6) of that Article—

“(6A) Where an earner's guaranteed minimum pension is increased under paragraph (6), the increase of that part of it which is attributable to earnings factors for the tax year 1987–88 and earlier tax years shall be calculated separately from the increase of the rest.

(6B) Where one or more orders have come into force under Article 39A during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the pension for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.”.

(3) In Article 38 of the Pensions Order (widows)—

(a) the following paragraphs shall be substituted for paragraph (1)—

“(1) Subject to the provisions of this Part, for an occupational pension scheme to be contracted-out in relation

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to an earner's employment it must provide, in the event of the earner dying (whether before or after attaining pensionable age) and leaving a widow or widower, for the widow or widower to be entitled to a guaranteed minimum pension under the scheme.

(1A) A scheme need not provide for widowers of earners who die before 6th April 1989 to be entitled to guaranteed minimum pensions.”;

- (b) the following paragraph shall be substituted for paragraph (3)—

“(3) To comply with this Article the scheme must also contain a rule to the effect that—

(a) if the earner is a man who had a guaranteed minimum under Article 37, the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner;

(b) if the earner is a woman who had such a guaranteed minimum, the weekly rate of the widower's pension will be not less than his guaranteed minimum, which shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988–89 and subsequent tax years.”; and

- (c) the following paragraphs shall be inserted after paragraph (7)—

“(7A) The scheme must provide for the widower's pension to be payable in prescribed circumstances and for the prescribed period.

(7B) The trustees or managers of the scheme shall supply to the Department any such information as the Department may require relating to the payment of pensions under the scheme to widowers.”.

- (4) The following provisions of the Pensions Order shall be construed as if the references to “widow” included references to “widower”—

- (a) Article 28(2);
- (b) Article 34(2)(a);
- (c) Article 38(8);
- (d) Article 40(3);
- (e) Article 41(4)(b);
- (f) Article 43B(1)(c), (2)(a) and (b) and (3);
- (g) Article 46(9);
- (h) Article 53D,

and with consequential modifications.

- (5) The reference in Article 31(1) of the Pensions Order to a

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person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner in any case where he is entitled to a widower's invalidity pension, but that reference shall be so construed where he is entitled to any other benefit only if—

- (a) at the time of the earner's death she and her husband had both attained pensionable age; or
- (b) he is also entitled to a Category A retirement pension by virtue of Article 18(5) of that Order.

(6) The following provisions of the Pensions Order shall be construed as if the references to a person entitled to receive a guaranteed minimum pension included references to a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed—

- (a) Article 46(1)(b) and (2)(b); and
- (b) Article 50(1); and
- (c) Article 51(3);

and the references to "widow" in Article 46(5) of that Order shall be construed as including references to "widower", and the reference in Article 50(6) of that Order to guaranteed minimum pensions as including a reference to the guaranteed minimum pension of such a person, only in those cases.

(7) The following Article shall be inserted after Article 39 of the Pensions Order—

"Annual increases of guaranteed minimum pensions

39A.—(1) Whenever the Secretary of State makes an order under section 37A of the Social Security Pensions Act 1975 specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for the tax year 1988–89 and subsequent tax years for—

- (a) earners who have attained pensionable age; and
- (b) widows and widowers,

the Department may make a corresponding order for Northern Ireland.

(2) Where the benefits mentioned in sections 16(2B), 28(7A) and 59(1A) of the principal Act and Article 31(1) are not increased on the day on which an order under this Article takes effect, the order shall be treated for the purposes of those subsections and that paragraph as not taking effect until the day on which the benefits mentioned in them are next increased.

(3) Except as permitted by paragraph (8), (9) or (10), the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of this Article out of

money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—

- (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the following year; or
- (b) the payment is to a person as the widow or widower of an earner who died before attaining pensionable age in respect of the tax year in which the person became a widow or widower and the increase is the one required to be made in the next following tax year.

(4) Paragraph (3) overrides any provision of a scheme to the extent that it conflicts with it.

(5) The Occupational Pensions Board may at any time, and shall if requested by the trustees and managers of a scheme, advise on any question whether or not paragraph (3) overrides any provision of the scheme.

(6) On an application made to them in respect of a scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Board shall issue a determination on any such question as is mentioned in paragraph (5).

(7) The persons competent to make an application under paragraph (6) in respect of a scheme are—

- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) any person who was an employer of persons in service in an employment to which the scheme applies;
- (d) any member or prospective member of the scheme; and
- (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this Article in respect of a scheme of that category.

(8) Where in the tax year 1989–90 the trustees or managers of an occupational pension scheme make an increase in the rate of pensions currently payable to the members of the scheme who have attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this paragraph, they would be required to make under this Article in the tax year 1990–91.

(9) Where the trustees or managers of such a scheme make an increase otherwise than in pursuance of this Article in a tax year subsequent to 1989–90, they may deduct the amount of the increase from any increase which, but for this paragraph, they

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would be required to make under this Article in the next following tax year.

(10) Where in any tax year subsequent to 1989–90 the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of this Article, they may deduct the part of the increase made otherwise than in pursuance of this Article from any increase which, but for this paragraph, they would be required to make under this Article in the next following year.

(11) Where by virtue of paragraph (8), (9) or (10) guaranteed minimum pensions are not required to be increased in pursuance of this Article, their amount shall be calculated for any purpose as if they had been so increased.

(12) Where by virtue of any of those paragraphs guaranteed minimum pensions are required to be increased in pursuance of this Article by an amount less than they otherwise would be, their amount shall be calculated for any purpose as if they had been increased by that full amount.”.

(8) In Article 69 of the Pensions Order (increase of official pensions) the following paragraph shall be inserted after paragraph (5)—

“(5A) Nothing in Article 39A(8), (9) or (10) authorises any deduction from an increase in the rate of an official pension under this Article.”.

(9) In Article 69A of the Pensions Order (modification of effect of Article 69(5)) the following paragraph shall be inserted after paragraph (2)—

“(2A) Where in any tax year—

(a) an increase is calculated in accordance with a direction under this Article; and

(b) the amount by reference to which the increase is calculated, or any part of it, is increased in that tax year under Article 39A,

the increase calculated in accordance with the direction shall be reduced by the amount of the increase under Article 39A.”.

Short-service benefit: qualifying service

12. In paragraphs 6(1)(b) and 7 of Schedule 3 to the Pensions Order (preservation of benefits under occupational pension scheme) for “5” wherever occurring there shall be substituted “2”.

Auditors

13. The following shall be inserted after Article 58L of the Pensions Order—

“Auditors

Regulations as to auditors

58M. The Department may by regulations make provision as to—

- (a) the appointment, resignation and removal of auditors of occupational pension schemes;
- (b) the duty of employers and auditors of employers to disclose information to the trustees or managers of occupational pension schemes and the auditors of such schemes;
- (c) the duty of trustees or managers of an occupational pension scheme to disclose information and to make available documents to the auditors of the scheme.”.

Provisions applying to personal and occupational pension schemes

Voluntary contributions

14.—(1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that a personal or occupational pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—

- (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
- (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
- (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him; and
- (d) must secure that the value of the additional benefits is reasonable, having regard—
 - (i) to the amount of the voluntary contributions; and
 - (ii) to the value of the other benefits under the scheme,

and the requirements specified in this paragraph may be referred to as “the voluntary contributions requirements”.

(2) Where the rules of a personal or occupational pension scheme do not comply with the voluntary contributions requirements it shall be the responsibility of—

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister of the Crown, government department or other person or body concerned with its administration,

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to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

(3) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in paragraph (2), advise whether the rules of a scheme do or do not in the Board's opinion conform with the voluntary contributions requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

(4) On application made to them in respect of a personal or occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the voluntary contributions requirements.

(5) The persons competent to make an application under this Article in respect of a scheme are—

- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) in the case of an occupational pension scheme, any person who is an employer of persons in service in an employment to which the scheme applies;
- (d) any member or prospective member of the scheme; and
- (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this Article in respect of a scheme of that category.

(6) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application made to them under paragraph (4).

(7) If the Occupational Pensions Board determine under paragraph (4) or (6) that the rules of a scheme do not conform with the voluntary contributions requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—

- (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in paragraph (5)(b), to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for);
or
- (b) if there is no person with power to modify the scheme as

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required by the Board, by order authorise the trustees or managers, or other persons named in the order (who in relation to an occupational pension scheme may in particular include such an employer as is specified in paragraph (5)(c)) to make that modification; or

(c) themselves by order modify the scheme with a view to achieving the purpose above-mentioned.

(8) The Board may exercise their powers under paragraph (7) from time to time in relation to any scheme in respect of which they have issued a determination under paragraph (4) or (6), and may exercise the powers together or separately.

(9) Any modification of a scheme made in pursuance of an order of the Board under paragraph (7)(b) or (c) shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—

(a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;

(b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or of the obtaining of any consent, with a view to the making of the modification.

(10) An order of the Board under paragraph (7)(a) may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under paragraph (7)(b) or (c) may operate retrospectively; and in this paragraph “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this Article.

(11) In Article 60(3) of the Pensions Order (modification and winding up by order of Occupational Pensions Board) the following sub-paragraph shall be inserted after sub-paragraph (g)—

“(h) to comply with the voluntary contributions requirements specified in paragraph (1) of Article 14 of the Social Security (Northern Ireland) Order 1986, but without prejudice to anything in paragraphs (2) to (10) of that Article.”.

Regulations as to form and content of advertisements

15. Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

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Information

16. Regulations may require the furnishing by prescribed persons to the Department or the Occupational Pensions Board of such information as the Department or the Board require for the purposes of the preceding provisions of this Part.

Terms of contracts of service or schemes restricting choice to be void

17.—(1) Subject to such exceptions as may be prescribed—

(a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member of a personal or occupational pension scheme, of a particular personal or occupational pension scheme or of one or other of a number of particular personal or occupational pension schemes shall be void; and

(b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner to a particular personal or occupational pension scheme of which the earner is not a member, or to one or other of a number of personal or occupational pension schemes of none of which he is a member, shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.

(2) Paragraph (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—

(a) to make contributions to a personal or occupational pension scheme; or

(b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

General power to modify statutory provisions

18.—(1) Regulations may provide that any provision which is contained in the Social Security Act 1973 or the Social Security (Northern Ireland) Acts 1975 to 1986, other than a provision contained in this Part, and which relates to occupational pension schemes—

(a) shall have effect in relation to personal pension schemes subject to prescribed modifications;

(b) shall have effect subject to such other modifications as the Department may consider necessary or expedient in consequence of this Part.

(2) Subject to paragraph (4), regulations may provide that any provision contained in a statutory provision to which this paragraph applies shall have effect subject to such modifications as the Department, after consultation with the appropriate authority, may consider necessary or expedient in consequence of this Part.

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- (3) The statutory provisions to which paragraph (2) applies are—
- (a) the Judicial Pensions Act (Northern Ireland) 1951; 1951 c. 20 (N.I.)
 - (b) the County Courts Act (Northern Ireland) 1959; 1959 c. 25 (N.I.)
 - (c) the Resident Magistrates' Pensions Act (Northern Ireland) 1960; 1960 c. 2 (N.I.)
 - (d) the Lands Tribunal and Compensation Act (Northern Ireland) 1964; 1964 c. 29 (N.I.)
 - (e) the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969; 1969 c. 7 (N.I.)
 - (f) the Police Act (Northern Ireland) 1970; 1970 c. 9 (N.I.)
 - (g) the Superannuation (Northern Ireland) Order 1972; 1972 NI 10
 - (h) section 97(4) of, and Schedule 10 to, the principal Act;
 - (i) the Assembly Pensions (Northern Ireland) Order 1976; S.I. 1976/1779
 - (j) section 72(2) of, and Schedule 4 to, the Judicature (Northern Ireland) Act 1978; 1978 c. 23
 - (k) the Fire Services (Northern Ireland) Order 1984. 1984 NI 11

(4) In this Article "the appropriate authority" means such Minister of the Crown or government department as the Secretary of State may by order designate in relation to any provision of a statutory provision to which paragraph (2) applies; and regulations under that paragraph modifying such a provision shall not be made without the consent of the appropriate authority so designated.

State earnings-related pension scheme

Additional pensions

19.—(1) In any statutory provision—

- (a) a reference to a basic pension shall be substituted for any reference to the basic component of a long-term benefit; and
- (b) a reference to an additional pension shall be substituted for any reference to an additional component of such a benefit.

(2) In paragraph (2) of Article 8 of the Pensions Order (rate of Category A retirement pension) the words "for a pensioner who attained pensionable age in a tax year before 6th April 1999" shall be inserted before the word "shall".

(3) The following paragraphs shall be inserted after that paragraph—

"(2A) The additional pension for a pensioner who attained pensionable age in a tax year after 5th April 1999 shall be—

- (a) in relation to any surpluses in the pensioner's earnings factors for the tax years in the period beginning with the tax year 1978–79 and ending with the tax year 1987–88, the weekly equivalent of $\frac{25}{N}$ per cent. of the amount of

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those surpluses; and

(b) in relation to any surpluses in the pensioner's earnings factors in a tax year after the tax year 1987-88, the weekly equivalent of the relevant percentage of the amount of those surpluses; and in this sub-paragraph "relevant percentage" means—

(i) where the pensioner attained pensionable age in the tax year 2009-10 or any subsequent year, $\frac{20}{N}$;

(ii) where the pensioner attained pensionable age in a tax year falling within the period commencing with the tax year 1999-2000 and ending with the tax year 2008-09, $\frac{20 + X}{N}$.

(2B) In this Article—

X = 0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes the tax year 2009-10; and

N = the number of tax years in the pensioner's working life which fall after 5th April 1978;

and regulations may direct that in prescribed cases or classes of cases any tax year shall be disregarded for the purpose of calculating N, if it is a tax year after 5th April 1978 in which the pensioner—

(a) was credited with contributions or earnings under the principal Act by virtue of regulations under section 13(4) of that Act (credits to enable a person to satisfy contribution conditions); or

(b) was precluded from regular employment by responsibilities at home; or

(c) in prescribed circumstances, would have been treated as falling within sub-paragraph (a) or (b),

but not so as to reduce the number of years below 20."

(4) In paragraph (3) of that Article, after "(2)" there shall be inserted "or (2A)".

(5) For the purpose of determining the additional pension falling to be calculated under Article 8 of the Pensions Order by virtue of Article 9, 15 or 18(4) of that Order in a case where the deceased spouse died under pensionable age, the following definition shall be substituted for the definition of "N" in Article 8(2B)—

"N = the number of tax years which begin after 5th April 1978 and end before the date when entitlement to the additional pension commences, except that where—

(a) in a case in which the deceased spouse was a man, that number would be greater than 49; or

(b) in a case in which the deceased spouse was a woman, that number would be greater than 44,

N = 49 or 44, as the case may be;”.

(6) For the purpose of determining the additional pension falling to be calculated under Article 8 of that Order by virtue of Article 16 of that Order (invalidity pension for persons under pensionable age), the following definition shall be substituted for the definition of “N” in Article 8(2B)—

“N = the number of tax years which begin after 5th April 1978 and end before the first day of entitlement to the additional pension in the period of interruption of employment in which that day falls, except that where—

(a) in a case in which the person entitled to the pension is a man, that number would be greater than 49; or

(b) in a case in which the person so entitled is a woman, that number would be greater than 44,

N = 49 or 44, as the case may be;”.

Additional pensions—supplementary

20.—(1) The additional pension falling to be calculated under Article 8 of the Pensions Order by virtue of any of the following provisions of that Order—

(a) Article 9 (rate of widow’s Category B retirement pension);

(b) Article 10 (Category B retirement pension for widower);

(c) Article 15 (rate of widowed mother’s allowance and widow’s pension); and

(d) Article 18(4) (invalidity pension for widowers),

shall be one-half of the amount so calculated if the deceased spouse died after 5th April 2000.

(2) In paragraph 4 of Schedule 1 to that Order—

(a) the words “Subject to sub-paragraph (2A), where” shall be substituted for the word “Where”, in sub-paragraphs (1) and (2); and

(b) the following sub-paragraph shall be inserted after sub-paragraph (2)—

“(2A) If a married person dies after 5th April 2000, the rate of the retirement pension for that person’s widow or widower shall be increased by an amount equivalent to the sum of—

(a) the increase in the basic pension to which the deceased spouse was entitled; and

(b) one-half of the increase in the additional pension.”.

(3) In sub-paragraph (1) of paragraph 4A of that Schedule after the word “increased” there shall be inserted the words “, subject to sub-paragraph (1A),”.

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(4) The following sub-paragraph shall be inserted after that sub-paragraph—

“(1A) Where the husband dies after 5th April 2000, sub-paragraph (1) shall have effect in relation to his widow as if for the words from “the following amounts” onwards there were substituted the words “the following amounts—

- (i) one-half of the appropriate amount after it has been reduced by the amount of any increases under Article 39A; and
- (ii) one-half of any increase to which he had been entitled under this paragraph.”.”.

(5) In sub-paragraph (2), after the word “increased” there shall be inserted the words “, subject to sub-paragraph (2A),”.

(6) The following sub-paragraph shall be inserted after that sub-paragraph—

“(2A) Where the wife dies after 5th April 1989, sub-paragraph (2) shall have effect as if for the words from “an amount”, in the first place where those words occur, to the end there were substituted—

(a) if she dies before 6th April 2000, the words “an amount equal to the sum of—

- (i) that increase, so far as attributable to employment before 6th April 1988;
- (ii) one-half of that increase, so far as attributable to employment after 5th April 1988;
- (iii) the appropriate amount reduced by the amount of any increases under Article 39A; and
- (iv) any increase to which she had been entitled under this paragraph.”; and

(b) if she dies after 5th April 2000, the words “an amount equal to the sum of—

- (i) one-half of that increase so far as attributable to employment before 6th April 1988;
- (ii) one-half of the appropriate amount after it has been reduced by the amount of any increases under Article 39A; and
- (iii) one-half of any increase to which she had been entitled under this paragraph.”.”.

PART III
INCOME-RELATED BENEFITS

General

Income-related benefits

21.—(1) Prescribed schemes shall provide for the following benefits (in this Order referred to as “income-related benefits”)—

- (a) income support;
- (b) family credit; and
- (c) housing benefit.

(2) The Department shall make copies of schemes prescribed under paragraph (1)(a) or (b) available for public inspection at social security offices of the Department at all reasonable hours without payment.

(3) A person in Northern Ireland is entitled to income support if—

- (a) he is of or over the age of 16;
- (b) he has no income or his income does not exceed the applicable amount;
- (c) he is not engaged in remunerative work and, if he is a member of a married or unmarried couple, the other member is not so engaged; and
- (d) except in such circumstances as may be prescribed—
 - (i) he is available for employment;
 - (ii) he is not receiving relevant education.

(4) Circumstances may be prescribed in which a person must not only satisfy the condition specified in paragraph (3)(d)(i) but also be registered in the prescribed manner for employment.

(5) Subject to regulations under Article 52(1)(a), a person in Northern Ireland is entitled to family credit if, when the claim for it is made or is treated as made—

- (a) his income—
 - (i) does not exceed the applicable amount; or
 - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which Article 22(3) provides is made;
- (b) he or, if he is a member of a married or unmarried couple, he or the other member of the couple, is engaged and normally engaged in remunerative work; and
- (c) he or, if he is a member of a married or unmarried couple, he or the other member, is responsible for a member of the same household who is a child or a person of a prescribed description.

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(6) Family credit shall be payable for a period of 26 weeks or such other period as may be prescribed, beginning with the week in which a claim for it is made or is treated as made and, subject to regulations, an award of family credit and the rate at which it is payable shall not be affected by any change of circumstances during that period.

(7) A person is entitled to housing benefit if—

- (a) he is liable to make payments in respect of a dwelling in Northern Ireland which he occupies as his home;
- (b) there is an appropriate maximum housing benefit in his case; and
- (c) either—
 - (i) he has no income or his income does not exceed the applicable amount; or
 - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which Article 22(5) provides is made.

(8) In paragraph (7) “payments in respect of a dwelling” means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe mortgage payments.

(9) Except in prescribed circumstances the entitlement of one member of a family to any one income-related benefit excludes entitlement to that benefit for any other member for the same period.

(10) Regulations may provide that an award of family credit shall terminate—

- (a) if a person who was a member of the family at the date of the claim becomes a member of another family and some member of that family is entitled to family credit; or
- (b) if income support becomes payable in respect of a person who was a member of the family at the date of the claim for family credit.

(11) In this Part—

“child” means a person under the age of 16;

“family” means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description;
- (c) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

“married couple” means a man and woman who are married to

each other and are members of the same household;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances.

(12) Regulations may make provision for the purposes of this Part—

- (a) as to circumstances in which a person is to be treated as being or not being in Northern Ireland;
- (b) continuing a person's entitlement to benefit during periods of temporary absence from Northern Ireland;
- (c) as to what is or is not to be treated as remunerative work or as employment;
- (d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work or available for employment;
- (e) as to what is or is not to be treated as relevant education;
- (f) as to circumstances in which a person is or is not to be treated as receiving relevant education;
- (g) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
- (h) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
- (i) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
- (j) for treating as included in a dwelling any land used for the purposes of the dwelling;
- (k) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (l) as to circumstances in which one person is to be treated as responsible or not responsible for another.

Amount, etc.

22.—(1) Where a person is entitled to income support—

- (a) if he has no income, the amount shall be the applicable amount; and
- (b) if he has income, the amount shall be the difference between his income and the applicable amount.

(2) Where a person is entitled to family credit by virtue of Article 21(5)(a)(i), the amount shall be the amount which is the appropriate maximum family credit in his case.

(3) Where a person is entitled to family credit by virtue of Article 21(5)(a)(ii), the amount shall be what remains after the deduction from the appropriate maximum family credit of a prescribed percentage of the excess of his income over the applicable amount.

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(4) Where a person is entitled to housing benefit by virtue of Article 21(7)(c)(i), the amount shall be the amount which is the appropriate maximum housing benefit in his case.

(5) Where a person is entitled to housing benefit by virtue of Article 21(7)(c)(ii), the amount shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.

(6) Regulations shall prescribe the manner in which—

- (a) the appropriate maximum family credit;
- (b) the appropriate maximum housing benefit,

are to be determined in any case.

(7) Where the amount of any income-related benefit would be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

Calculation

23.—(1) The applicable amount shall be such amount or the aggregate of such amounts as may be prescribed.

(2) The power to prescribe applicable amounts conferred by paragraph (1) includes power to prescribe nil as an applicable amount.

(3) In relation to income support and housing benefit the applicable amount for a severely disabled person shall include an amount in respect of his being a severely disabled person.

(4) Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled.

(5) Where a person claiming an income-related benefit is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of that person.

(6) No person shall be entitled to an income-related benefit if his capital or a prescribed part of it exceeds the prescribed amount.

(7) Regulations may provide that capital not exceeding the amount prescribed under paragraph (6) but exceeding a prescribed lower amount shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

(8) Income and capital shall be calculated or estimated in such manner as may be prescribed.

(9) Circumstances may be prescribed in which—

- (a) a person is treated as possessing capital or income which he does not possess;
- (b) capital or income which a person does possess is to be disregarded;

- (c) income is to be treated as capital;
- (d) capital is to be treated as income.

Income support

Trade disputes

24.—(1) This Article applies to a person, other than a child or a person of a prescribed description—

- (a) who is disqualified under section 19 of the principal Act for receiving unemployment benefit; or
- (b) who would be so disqualified if otherwise entitled to that benefit,

except during any period shown by the person to be a period of incapacity for work by reason of disease or bodily or mental disablement or to be within the maternity period.

(2) In paragraph (1) “the maternity period” means the period commencing at the beginning of the sixth week before the expected week of confinement and ending at the end of the seventh week after the week in which confinement takes place.

(3) For the purpose of calculating income support—

- (a) so long as this Article applies to a person who is not a member of a family, the applicable amount shall be disregarded;
- (b) so long as it applies to a person who is a member of a family but is not a member of a married or unmarried couple, the portion of the applicable amount which is included in respect of him shall be disregarded;
- (c) so long as it applies to one of the members of a married or unmarried couple—
 - (i) if the applicable amount consists only of an amount in respect of them, it shall be reduced to one-half; and
 - (ii) if it includes other amounts, the portion of it which is included in respect of them shall be reduced to one-half and any further portion of it which is included in respect of the member of the couple to whom this Article applies shall be disregarded;
- (d) so long as it applies to both the members of a married or unmarried couple—
 - (i) if neither of them is responsible for a child or person of a prescribed description who is a member of the same household, the applicable amount shall be disregarded; and
 - (ii) in any other case, the portion of the applicable amount which is included in respect of them and any further

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portion of it which is included in respect of either of them shall be disregarded.

(4) Where a reduction under paragraph (3)(c) would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.

(5) Where this Article applies to a person for any period, then, except so far as regulations provide otherwise—

(a) in calculating the entitlement to income support of that person or a member of his family the following shall be treated as his income and shall not be disregarded—

(i) any payment which he or a member of his family receives or is entitled to obtain by reason of the person to whom this Article applies being without employment for that period; and

(ii) without prejudice to the generality of head (i), any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his emoluments in pursuance of section 204 of the Income and Corporation Taxes Act 1970; and

(b) any payment by way of income support for that period or any part of it which apart from this sub-paragraph would be made to him, or to a person whose applicable amount is aggregated with his—

(i) shall not be made if the weekly rate of payment is equal to or less than the relevant sum; or

(ii) if it is more than the relevant sum, shall be at a weekly rate equal to the difference.

(6) In paragraph (5) “the relevant sum” means the amount which immediately before this Article comes into operation is specified in Article 6(1)(b) of the Social Security (No. 2) (Northern Ireland) Order 1980 increased by the percentage by which any order under Article 64 which brings alterations in the rates of benefits into operation on the day on which this Article comes into operation increases the sums corresponding to the sums specified in section 63(3) of the Social Security Act 1986.

(7) If an order under Article 64 has the effect of increasing payments of income support, from the time when the order comes into operation there shall be substituted, in paragraph (5)(b), for the references to the sum for the time being mentioned in it references to a sum arrived at by—

(a) increasing that sum by the percentage by which applicable amounts have been increased by the order; and

(b) if the sum as so increased is not a multiple of 50 pence, disregarding the remainder if it is 25 pence and, if it is not, rounding it up or down to the nearest 50 pence,

1970 c. 10

1980 NI 13

1986 c. 50

and the order shall state the substituted sum.

(8) If a person returns to work with the same employer after a period during which this Article applies to him, then, until the end of the period of 15 days beginning with the day on which he returns to work with that employer, Article 21(3) shall have effect in relation to him as if the following sub-paragraph were substituted for sub-paragraph (c)—

“(c) he is a member of a married or unmarried couple and the other member is not engaged in remunerative work; and”

but any sum paid by way of income support for that period shall be recoverable in the prescribed manner from him or from any prescribed person.

Recovery of expenditure on benefit from person liable for maintenance

25.—(1) Subject to the following provisions of this Article, if income support is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Department may make a complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 against the liable person for an order under this Article.

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(2) Except in a case falling within paragraph (3), this Article does not apply where the person who is liable to be maintained is an illegitimate child of the liable person.

(3) A case falls within this paragraph if—

- (a) the liable person is someone other than the child's father; or
- (b) the liable person is liable because he is a person such as is mentioned in Article 27(3)(c).

(4) On the hearing of a complaint under this Article the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within Article 27(3)(c) that sum shall not include any amount which is not attributable to income support (whether paid before or after the making of the order).

(5) In determining whether to order any payments to be made in respect of income support for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's income exceeds the income which was his during that period.

(6) Any payments ordered to be made under this Article shall be made—

- (a) to the Department in so far as they are attributable to any income support (whether paid before or after the making of the order);

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- (b) to the person claiming income support or (if different) the dependant; or
- (c) to such other person as appears to the court expedient in the interests of the dependant.

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(7) Any proceedings for an order under this Article shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981; and Article 88 of that Order (definition of "domestic proceedings") shall have effect accordingly.

Affiliation orders

26.—(1) If—

- (a) income support is claimed by or in respect of an illegitimate child or paid in respect of such a child; and
- (b) no affiliation order is in force; and
- (c) the case does not fall within Article 25(3),

1924 c. 27 (N.I.)

the Department may, within three years from the time of the claim or payment, make application upon complaint to a justice of the peace having jurisdiction in the petty sessions district in which the mother of the child resides for a summons to be issued under section 2 of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.

(2) In any proceedings on an application under paragraph (1) the court shall hear such evidence as the Department may produce, in addition to the evidence required to be heard by section 1(3) of the said Act of 1924, and shall in all respects, subject to the provisions of paragraph (3), proceed as on an application made by the mother under section 2 of that Act.

(3) An affiliation order—

- (a) made on an application by the Department under paragraph (1); or
- (b) made on an application made by the Department in proceedings brought by the mother of the child under section 2 of the said Act of 1924,

may be made so as to provide that the payments or a part of the payments to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Department or to such other person as the court may direct.

(4) Any affiliation order, whether made before or after the commencement of this Article, may, on the application of the Department, be varied so as to provide for the making of payments, or part of them, as mentioned in paragraph (3); and an application by the Department under this paragraph may be made—

- (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and

(b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.

(5) An affiliation order which provides for the making of payments, or part of them, as mentioned in paragraph (3), may, on the application of the mother of the child or any other person who has custody of the child either legally or by any arrangement approved by the court, be varied so as to provide that the payments shall be made to the mother or a person having the custody of the child.

(6) An affiliation order made or varied under this Article shall be an affiliation order within the meaning of the said Act of 1924, and accordingly the provisions of that Act shall, without prejudice to the foregoing provisions of this Article, apply to any such order so made or varied.

Failure to maintain—general

27.—(1) If—

- (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
- (b) in consequence of his refusal or neglect income support is paid to or in respect of him or such a person,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine of an amount not exceeding level 4 on the standard scale or to both.

(2) For the purposes of paragraph (1) a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

(3) For the purposes of this Article and Articles 25 and 26—

- (a) a man shall be liable to maintain his wife and his children;
- (b) a woman shall be liable to maintain her husband and her children; and

(c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after 24th June 1980 (the date of the making of the Social Security (Northern Ireland) Order 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.

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1971 c. 77

(4) In paragraph (3)—

- (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the father; and
- (b) the reference to a woman's children includes a reference to her illegitimate children.

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- (5) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and
 - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in paragraph (3)(c),

shall be conclusive of the undertaking in question for the purpose of this Article and Article 25; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

Prevention of duplication of payments

28.—(1) Where—

- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
- (b) it is determined that an amount which has been paid by way of income support would not have been paid if the payment had been made on the prescribed date,

the Department shall be entitled to recover that amount from the person to whom it was paid.

(2) Where—

- (a) a prescribed payment which apart from this paragraph falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and
- (b) it is determined that an amount (“the relevant amount”) has been paid by way of income support that would not have been paid if the payment mentioned in sub-paragraph (a) had been made on the prescribed date,

then—

- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
- (ii) in the case of any other payment, the Department shall be entitled to receive the relevant amount out of the payment.

(3) Where—

- (a) a person (in this paragraph referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this paragraph referred to as B); and
- (b) either—
 - (i) B has received income support for that period; or
 - (ii) B was, during that period, a member of the same family as some person other than A who received income support for that period; and

- (c) the amount of the income support has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,

the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support exceed what it is determined that they would have been had A, at the time the amount of the income support was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.

(4) Where an amount could have been recovered by abatement by virtue of paragraph (2) or (3) but has not been so recovered, the Department may recover it otherwise than by way of abatement—

- (a) in the case of an amount which could have been recovered by virtue of paragraph (2), from the person to whom it was paid; and
(b) in the case of an amount which could have been recovered by virtue of paragraph (3), from the person to whom the prescribed benefit in question was paid.

(5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this Article in accordance with regulations.

Housing benefit

Arrangements for housing benefit

29.—(1) Housing benefit provided by virtue of a scheme under Article 21(1) (in this Order referred to as “the housing benefit scheme”)—

- (a) is to be in the form of a rate rebate, if it is in respect of payments by way of rates;
(b) is to be in the form of a rent rebate, if it is in respect of payments, other than payments by way of rates, to be made to the Northern Ireland Housing Executive (in this Part referred to as “the Executive”); and
(c) is in any other case to be in the form of a rent allowance.

(2) Housing benefit shall be administered by—

- (a) the Executive in so far as it relates to persons who are tenants of the Executive, private tenants or tenants of registered housing associations; and
(b) by the Department of the Environment in so far as it relates to persons who own and occupy their dwellings.

(3) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the

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purposes of paragraph (1)(a) as being, to such extent as may be prescribed, a payment by way of rates.

(4) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.

(5) In this Article—

“private tenants” means tenants under any tenancy except—

(a) a tenancy under which the estate of the landlord belongs to—

(i) the Executive; or

(ii) a registered housing association;

(b) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday;

“registered housing association” means a housing association registered in the register maintained under Part VII of the Housing (Northern Ireland) Order 1981.

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Adjudication and overpayments

30.—(1) Regulations shall require a person who has claimed housing benefit to be notified of the determination of that claim.

(2) Any such notification shall be given in such form as may be prescribed.

(3) Regulations shall make provision for reviews of determinations relating to housing benefit.

(4) Except where regulations otherwise provide, any amount of housing benefit paid in excess of entitlement may be recovered either by the Department, the Department of the Environment or the Executive in such manner as may be prescribed.

(5) Regulations may require the Department of the Environment or the Executive to recover such an amount in such circumstances as may be prescribed.

(6) An amount recoverable under this Article is in all cases recoverable from the person to whom it was paid; but, in such circumstances as may be prescribed, it may also be recovered from such other person as may be prescribed.

(7) Any amount recoverable under this Article may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

Housing benefit finance

31.—(1) The Department shall in respect of each financial year pay to the Executive a grant towards the expenditure incurred or to be incurred by the Executive in that year under this Part (including, if the Department so determines, an amount towards the costs of administering housing benefit).

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(2) The amount of the grant under paragraph (1) which is to be paid to the Executive shall be such as the Department may, with the approval of the Department of Finance and Personnel, determine.

(3) The Department shall pay to the Executive, for the financial year 1987–88, a grant, in connection with the costs incurred by the Executive in implementing the housing benefit scheme, and the amount of the grant under this paragraph which is to be paid to the Executive shall be such as the Department may, with the approval of the Department of Finance and Personnel, determine.

(4) A grant under this Article shall be payable by the Department at such time and in such manner as the Department may think fit, but subject—

- (a) to the making of a claim for it in such form and containing such particulars as the Department may determine; and
- (b) to such conditions as to records, certificates, audit or otherwise as the Department may, with the approval of the Department of Finance and Personnel, impose.

Information

32.—(1) The Department may supply to the Executive such information of a prescribed description obtained by reason of the exercise of any of the functions of the Department under the benefit Acts as the Executive may require in connection with any of the functions of the Executive relating to housing benefit.

(2) The Executive shall supply to the Department such information of a prescribed description obtained by reason of the exercise of the functions of the Executive relating to housing benefit as the Department may require in connection with any of the functions of the Department under the benefit Acts.

(3) It shall also be the duty of the Executive to supply the Department, in the prescribed manner and within the prescribed time—

- (a) with such information as the Department may require concerning their performance of any of the functions of the Executive relating to housing benefit; and
- (b) with such information as the Department may require to enable it—
 - (i) to prepare estimates of likely future amounts of housing benefit expenditure; and
 - (ii) to decide questions relating to the development of housing benefit policy.

(4) The Department of the Environment and the Executive—

- (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit become aware that they may be entitled to it; and

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(b) shall make copies of the housing benefit scheme available for public inspection at their offices at all reasonable hours without payment.

(5) In order to assist the Executive to give effect to the housing benefit scheme, where a rent is registered under Part V of the Rent (Northern Ireland) Order 1978, there shall be noted on the register the amount (if any) of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the provision of services, except any amount which is negligible in the opinion of the officer or, as the case may be, the committee.

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PART IV

THE SOCIAL FUND

The social fund and social fund officers

33.—(1) There shall be established a fund, to be known as the social fund.

(2) Payments may be made out of that fund, in accordance with this Part,—

(a) to meet, in prescribed circumstances, maternity expenses and funeral expenses; and

(b) to meet other needs in accordance with directions given or guidance issued by the Department.

(3) Payments under this Article shall be known as “social fund payments”.

(4) Social fund payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to Article 54) by no other means.

(5) The social fund shall be maintained under the control and management of the Department and payments out of it shall be made by the Department.

(6) The Department shall make payments into the social fund of such amounts, at such times and in such manner as the Department may with the approval of the Department of Finance and Personnel determine.

(7) Accounts of the social fund shall be prepared in such form, and in such manner and at such times, as the Department of Finance and Personnel may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies of it, together with his report, before the Assembly.

(8) The Department shall appoint officers, to be known as “social fund officers”, for the purpose of performing functions in relation to social fund payments such as are mentioned in paragraph (2)(b); and the Department may allocate an amount, or allocate different

amounts for different purposes, for such payments by a particular social fund officer or group of officers in a financial year.

(9) A social fund officer may be appointed to perform all the functions of social fund officers or such functions of such officers as may be specified in his instrument of appointment.

Awards by social fund officers

34.—(1) A social fund payment such as is mentioned in Article 33(2)(b) may be awarded to a person only if an application for such a payment has been made by him or on his behalf.

(2) The questions whether such a payment is to be awarded and how much it is to be shall be determined by a social fund officer.

(3) A social fund officer may determine that an award shall be payable in specified instalments at specified times.

(4) A social fund officer may determine that an award is to be repayable.

(5) An award which is repayable shall be recoverable by the Department.

(6) Without prejudice to any other method of recovery, the Department may recover an award by deduction from prescribed benefits.

(7) The Department may recover an award—

- (a) from the person to or for the benefit of whom it was made;
- (b) where that person is a member of a married or unmarried couple, from the other member of the couple;
- (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.

(8) Paragraphs (3) to (5) of Article 27 shall have effect for the purposes of paragraph (7)(c) as they have effect for the purposes of Articles 25 to 27.

(9) In determining whether to make an award to the applicant or the amount or value to be awarded a social fund officer shall have regard, subject to paragraph (10), to all the circumstances of the case and, in particular—

- (a) the nature, extent and urgency of the need;
- (b) the existence of resources from which the need may be met;
- (c) the possibility that some other person or body may wholly or partly meet it;
- (d) where the payment is repayable, the likelihood of repayment and the time within which repayment is likely;
- (e) any relevant allocation under Article 33(8).

(10) A social fund officer shall determine any question under this Article in accordance with any general directions issued by the

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Department and in determining any such question shall take account of any general guidance issued by the Department.

(11) Payment of an award shall be made to the applicant unless the social fund officer determines otherwise.

(12) In this Article “married couple” and “unmarried couple” are to be construed in accordance with Part III and regulations made under it.

Reviews

35.—(1) A social fund officer—

(a) shall review a determination made under this Part by himself or some other social fund officer, if an application for a review is made to him within such time and in such form and manner as may be prescribed by or on behalf of the person who applied for the social fund payment to which the determination relates; and

(b) may review such a determination in such other circumstances as he thinks fit:

and may exercise on a review any power exercisable by a social fund officer under Article 34.

(2) The power to review a determination conferred on a social fund officer by paragraph (1) includes power to review a determination made by a social fund officer on a previous review.

(3) On an application made by or on behalf of the person to whom a determination relates within such time and in such form and manner as may be prescribed a determination of a social fund officer which has been reviewed shall be further reviewed by a social fund inspector appointed by the social fund Commissioner under Article 36.

(4) On a review a social fund inspector shall have the following powers—

(a) power to confirm the determination made by the social fund officer;

(b) power to make any determination which a social fund officer could have made;

(c) power to refer the matter to a social fund officer for determination.

(5) A social fund inspector may review a determination under paragraph (3) made by himself or some other social fund inspector.

(6) In determining a question on a review a social fund officer or social fund inspector shall have regard, subject to paragraph (7), to all the circumstances of the case and, in particular, to the matters specified in Article 34(9)(a) to (e).

(7) A social fund officer or social fund inspector shall determine any question on a review in accordance with any general directions

issued by the Department under Article 34(10) and any general directions issued by the Department with regard to reviews and in determining any such question shall take account of any general guidance issued by the Department under that paragraph or with regard to reviews.

- (8) Directions under this Article may specify—
- (a) the circumstances in which a determination is to be reviewed; and
 - (b) the manner in which a review is to be conducted.

The social fund Commissioner

36.—(1) There shall be an officer to be known as the social fund Commissioner (in this Article referred to as “the Commissioner”).

(2) The Commissioner shall be appointed by the Department.

(3) The Commissioner—

- (a) shall appoint such social fund inspectors;
- (b) may appoint such officers and staff for himself and for social fund inspectors,

as he thinks fit, but with the consent of the Department and the Department of Finance and Personnel as to numbers.

(4) Appointments under paragraph (3) shall be made from persons made available to the Commissioner by the Department.

(5) It shall be the duty of the Commissioner—

- (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
- (b) to arrange such training of social fund inspectors as he considers appropriate; and
- (c) to carry out such other functions in connection with the work of social fund inspectors as the Department may direct.

(6) The Commissioner shall report annually in writing to the Department on the standards of reviews by social fund inspectors and the Department shall publish his report.

PART V

BENEFITS UNDER THE PRINCIPAL ACT

Widowhood

37.—(1) The following section shall be substituted for section 24 of the principal Act—

“Widow’s **24.**—(1) Subject to subsection (2) below, a woman who payment. has been widowed shall be entitled to a widow’s payment of

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the amount specified in relation thereto in Schedule 4, Part IA, if—

- (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension (section 28); and
- (b) her late husband satisfied the contribution condition for a widow's payment specified in Schedule 3, Part I, paragraph 4.

(2) The payment shall not be payable to a widow if she and a man to whom she is not married are living together as husband and wife at the time of her husband's death."

(2) The following shall be inserted after Part I of Schedule 4 to that Act—

"PART IA

WIDOW'S PAYMENT

Widow's payment (section 24). £1,000.00."

(3) In section 26—

- (a) in subsection (1), for "40", where occurring in paragraphs (a) and (b), there shall be substituted "45"; and
- (b) in subsection (2), for "50", in both places where it occurs, there shall be substituted "55".

Invalid care allowance for women

38.—(1) Section 37(3) of the principal Act shall have effect, and shall be treated as having had effect from 22nd December 1984, as if the words from "and a woman" to the end were omitted.

S.R. 1977 No. 74

(2) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 shall have effect, and shall be treated as having had effect from 22nd December 1984, as if the following subparagraphs were substituted for subparagraphs (a) and (b) of paragraph 7 of Schedule 2 (increases of invalid care allowance)—

- "(a) a spouse who is not engaged in any one or more employments from which the spouse's weekly earnings exceed that amount; or
- (b) some person (not being a child) who—
 - (i) has the care of a child or children in respect of whom the beneficiary is entitled to child benefit, being a child or children in respect of whom the beneficiary is entitled to an increase of an invalid care allowance or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits;

- (ii) is not undergoing imprisonment or detention in legal custody;
- (iii) is not engaged in any one or more employments (other than employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) from which the person's weekly earnings exceed that amount;
- (iv) is not absent from Northern Ireland, except for any period during which the person is residing with the beneficiary outside Northern Ireland and for which the beneficiary is entitled to an invalid care allowance."

Abolition of maternity grant

39.—(1) The provisions to which this paragraph applies shall cease to have effect.

(2) The provisions to which paragraph (1) applies are—

(a) in the principal Act—

(i) section 21; and

(ii) Schedule 4, Part II, paragraph 1; and

(b) in Article 6 of the Social Security (Northern Ireland) Order 1980, in paragraph (1) the words from "and in subsection (2)" in sub-paragraph (i) to the end of the sub-paragraph, and paragraphs (2) to (4).

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(3) If a woman is confined after the commencement of paragraph (1), she shall nevertheless be entitled to a maternity grant if—

(a) her expected date of confinement was before the commencement of that paragraph; and

(b) she has claimed the grant before the date of her confinement.

(4) No regulations made under section 21(5) of the principal Act shall apply to a woman whose expected date of confinement is after the commencement of paragraph (1).

Industrial injuries and diseases

40. Schedule 3 shall have effect in relation to Chapters IV and V of Part II of the principal Act and associated enactments.

Abolition of child's special allowance except for existing beneficiaries

41. A child's special allowance under section 31 of the principal Act shall not be payable for any period after this Article comes into operation except to a beneficiary who—

(a) immediately before the date on which this Article comes into operation satisfied the conditions for entitlement set out in paragraphs (a) to (c) of that section and was not barred from payment of the allowance by the proviso to it; and

(b) has so continued since that date.

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Abolition of death grant

42. Death grant shall not be payable in respect of a death which occurs after the commencement of this Article.

Abolition of reduced rate of short-term benefits

43. Paragraphs (a) to (c) of section 33(1) of the principal Act (reduced rate of short-term benefits payable on partial satisfaction of contribution conditions) shall cease to have effect.

Unemployment benefit—disqualification

44.—(1) The following subsection shall be substituted for section 18(4) of the principal Act—

“(4) Regulations may provide for a person who would be entitled to unemployment benefit but for the operation of any provision of this Act or for regulations disentitling him to it or disqualifying him for it to be treated as if entitled to it for the purposes of this section.”

(2) “13” shall be substituted for “6”—

(a) in section 20(1) of the principal Act; and

(b) in regulation 8(4)(b) of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983.

(3) In the principal Act—

(a) the following subsection shall be inserted after section 20(1)—

“(1A) The Department may by order substitute a longer or shorter period for the period for the time being mentioned in subsection (1) above.”; and

(b) in section 156(2)(b) (confirmatory procedure for certain orders) the words “section 20(1A) (variation in period of disqualification)” shall be inserted at the appropriate place in numerical order.

S.R. 1983 No. 61

Unemployment benefit—trade disputes

45.—(1) The following subsections shall be substituted for subsection (1) of section 19 of the principal Act (disqualification for unemployment benefit)—

“(1) Subject to the following provisions of this section—

(a) an employed earner who has lost employment as an employed earner by reason of a stoppage of work due to a trade dispute at his place of employment is disqualified for receiving unemployment benefit for any day during the stoppage unless he proves that he is not directly interested in the dispute; and

(b) an employed earner who has withdrawn his labour in furtherance of a trade dispute but does not fall within

paragraph (a) above is disqualified for receiving unemployment benefit for any day on which his labour remains withdrawn.

(1A) A person disqualified under subsection (1)(a) above for receiving unemployment benefit shall cease to be so disqualified if he proves that during the stoppage—

- (a) he has become bona fide employed elsewhere; or
- (b) his employment has been terminated by reason of redundancy within the meaning of section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965; or
- (c) he has bona fide resumed employment with his employer but has subsequently left for a reason other than the trade dispute.”.

1965 c. 19 (N.I.)

(2) The following shall be inserted after section 49 of that Act—

“Trade disputes

Effect of trade disputes on entitlement to increases.

49A. A beneficiary shall not be entitled—

- (a) to an increase in any benefit under sections 44 to 48 above; or
- (b) to an increase in benefit for an adult dependant by virtue of regulations under section 49 above, if the person in respect of whom he would be entitled to the increase—
 - (i) is disqualified under section 19 above for receiving unemployment benefit; or
 - (ii) would be so disqualified if he were otherwise entitled to that benefit.”.

Guardian’s allowance—adoption

46. In section 38 of the principal Act (guardian’s allowance)—

- (a) in subsection (6), for the word “No” there shall be substituted the words “Subject to subsection (7) below, no”; and
- (b) the following subsection shall be inserted after subsection (6)—
 - “(7) Where a person—
 - (a) has adopted a child; and
 - (b) was entitled to guardian’s allowance in respect of the child immediately before the adoption,subsection (6) above shall not terminate his entitlement.”.

PART VI
MATERNITY PAY, ETC.

Statutory maternity pay—entitlement and liability to pay

47.—(1) Subject to the following provisions of this Order, where a woman who is or has been an employee satisfies the conditions set out in this Article, she shall be entitled to payments to be known as “statutory maternity pay”.

(2) The conditions mentioned in paragraph (1) are—

(a) that she has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the week immediately preceding the 14th week before the expected week of confinement but has ceased to work for him, wholly or partly because of pregnancy or confinement;

(b) that her normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the 14th week before the expected week of confinement are not less than the lower earnings limit in force under section 4(1)(a) of the principal Act immediately before the commencement of the 14th week before the expected week of confinement; and

(c) that she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement.

(3) The liability to make payments of statutory maternity pay to a woman is a liability of any person of whom she has been an employee as mentioned in paragraph (2)(a).

(4) Except in such cases as may be prescribed, a woman shall be entitled to payments of statutory maternity pay only if—

(a) she gives the person who will be liable to pay it notice that she is going to be absent from work with him, wholly or partly because of pregnancy or confinement; and

(b) the notice is given at least 21 days before her absence from work is due to begin or, if that is not reasonably practicable, as soon as is reasonably practicable.

(5) The notice shall be in writing if the person who is liable to pay the woman statutory maternity pay so requests.

(6) Any agreement shall be void to the extent that it purports—

(a) to exclude, limit or otherwise modify any provision of this Part; or

(b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by her employer or former employer under this Part;

but Article 25A of the Social Security (Northern Ireland) Order 1982 shall have effect in relation to sub-paragraph (a) as it has effect in

relation to Article 3(2)(a) of that Order but as if the reference to statutory sick pay were a reference to statutory maternity pay.

(7) Regulations shall make provision as to a former employer's liability to pay statutory maternity pay to a woman in any case where the former employer's contract of service with her has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory maternity pay.

(8) The Department may by regulations—

- (a) specify circumstances in which, notwithstanding the foregoing provisions of this Article, there is to be no liability to pay statutory maternity pay in respect of a week;
- (b) specify circumstances in which, notwithstanding the foregoing provisions of this Article, the liability to make payments of statutory maternity pay is to be a liability of the Department;
- (c) specify in what circumstances employment is to be treated as continuous for the purposes of this Part;
- (d) provide that a woman is to be treated as being employed for a continuous period of at least 26 weeks where—
 - (i) she has been employed by the same employer for at least 26 weeks under 2 or more separate contracts of service; and
 - (ii) those contracts were not continuous;
- (e) provide that paragraph (2)(a) or (b) or both shall have effect subject to prescribed modifications—
 - (i) where a woman has been dismissed from her employment;
 - (ii) where a woman is confined before the beginning of the 14th week before the expected week of confinement; and
 - (iii) in such other cases as may be prescribed;
- (f) provide for amounts earned by a woman under separate contracts of service with the same employer to be aggregated for the purposes of this Part; and
- (g) provide that the amount of a woman's earnings for any period, or the amount of her earnings to be treated as comprised in any payment made to her or for her benefit, shall be calculated or estimated in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a woman shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of her earnings.

The maternity pay period

48.—(1) Subject to the provisions of this Part, statutory maternity pay shall be payable in respect of each week during a prescribed

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period (“the maternity pay period”) of a duration not exceeding 18 weeks.

(2) Subject to paragraphs (3) and (7), the first week of the maternity pay period shall be the 11th week before the expected week of confinement.

(3) Cases may be prescribed in which the first week of the period is to be a prescribed week later than the 11th week before the expected week of confinement, but not later than the 6th week before the expected week of confinement.

(4) Statutory maternity pay shall not be payable to a woman by a person in respect of any week during any part of which she works under a contract of service with him.

(5) It is immaterial for the purposes of paragraph (4) whether the work referred to in that paragraph is work under a contract of service which existed immediately before the maternity pay period or a contract of service which did not so exist.

(6) Except in such cases as may be prescribed, statutory maternity pay shall not be payable to a woman in respect of any week after she has been confined and during any part of which she works for any employer who is not liable to pay her statutory maternity pay.

(7) Regulations may provide that this Article shall have effect subject to prescribed modifications in relation—

(a) to cases in which a woman has been confined before the 11th week before the expected week of confinement; and

(b) to cases in which—

(i) a woman is confined between the 11th and 6th weeks before the expected week of confinement; and

(ii) the maternity pay period has not then commenced for her.

Rates of payment

49.—(1) There shall be two rates of statutory maternity pay, in this Order referred to as “the higher rate” and “the lower rate”.

(2) The higher rate is a weekly rate equivalent to nine-tenths of a woman’s normal weekly earnings for the period of 8 weeks immediately preceding the 14th week before the expected week of confinement.

(3) The lower rate is such weekly rate as may be prescribed.

(4) Subject to the following provisions of this Article, statutory maternity pay shall be payable at the higher rate to a woman who for a continuous period of at least 2 years ending with the week immediately preceding the 14th week before the expected week of confinement has been an employee in employed earner’s employment of any person liable to pay it to her, and shall be so paid by any such person in respect of the first 6 weeks in respect of which it is payable.

(5) Statutory maternity pay shall not be payable at the higher rate to a woman whose relations with the person liable to pay it are or were governed by a contract of service which normally involves or involved employment for less than 16 hours weekly unless during a continuous period of at least 5 years ending with the week immediately preceding the 14th week before the expected week of confinement her contract of service normally involved employment for 8 hours or more weekly.

(6) The Department may by regulations make provision as to when a contract of service is to be treated for the purposes of paragraph (5) as normally involving or having involved employment—

- (a) for less than 16 hours weekly; or
- (b) for 8 hours or more weekly,

or as not normally involving or having involved such employment.

(7) Statutory maternity pay shall be payable to a woman at the lower rate if she is entitled to statutory maternity pay but is not entitled to payment at the higher rate.

(8) If a woman is entitled to statutory maternity pay at the higher rate, she shall be entitled to it at the lower rate in respect of the portion of the maternity pay period after the end of the 6 week period mentioned in paragraph (4).

Further provisions relating to statutory maternity pay, etc.

50.—(1) Part I of Schedule 4 shall have effect for supplementing this Part.

(2) The principal Act shall have effect subject to the amendments set out in Part II of that Schedule.

(3) Part III of that Schedule shall have effect in relation to maternity pay under the Industrial Relations (No. 2) (Northern Ireland) Order 1976 and to the Northern Ireland Maternity Pay Fund.

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Interpretation of Part VI

51.—(1) In this Part (including Schedule 4)—

“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and “confined” shall be construed accordingly; and where a woman’s labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them;

“dismissed” is to be construed in accordance with Article 21(2) to (5) of the Industrial Relations (Northern Ireland) Order 1976;

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“employee” means a woman who is—

(a) gainfully employed in Northern Ireland either under a contract of service or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and

(b) over the age of 16;

but subject to regulations which may provide for cases where any such woman is not to be treated as an employee for the purposes of this Part and for cases where a woman who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

“employer”, in relation to a woman who is an employee and a contract of service of hers, means a person who under section 4 of the principal Act is, or but for subsection (2)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any of her earnings (within the meaning of that Act) under the contract;

“maternity pay period” has the meaning assigned to it by Article 48(1);

“week” means a period of 7 days beginning with midnight between Saturday and Sunday or such other period as may be prescribed in relation to any particular case or class of cases.

(2) Without prejudice to any other power to make regulations under this Part, regulations may specify cases in which, for the purposes of this Part or of such provisions of this Part as may be prescribed—

(a) two or more employers are to be treated as one;

(b) two or more contracts of service in respect of which the same woman is an employee are to be treated as one.

(3) For the purposes of this Part a woman’s normal weekly earnings shall, subject to paragraph (5), be taken to be the average weekly earnings which in the relevant period have been paid to her or paid for her benefit under the contract of service with the employer in question.

(4) For the purposes of paragraph (3) “earnings” and “relevant period” shall have the meanings given to them by regulations.

(5) In such cases as may be prescribed a woman’s normal weekly earnings shall be calculated in accordance with regulations.

PART VII

COMMON PROVISIONS

Administration

Regulations about claims for and payments of benefit

52.—(1) Regulations may provide—

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- (a) for requiring a claim for a benefit to which this Article applies to be made by such person, in such manner and within such time as may be prescribed;
- (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on such a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable under the award;
- (e) for a review of any such award if those requirements are found not to have been satisfied;
- (f) for the disallowance on any ground of a person's claim for a benefit to which this Article applies to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
- (g) for enabling one person to act for another in relation to a claim for a benefit to which this Article applies and for enabling such a claim to be made and proceeded with in the name of a person who has died;
- (h) for requiring any information or evidence needed for the determination of such a claim or of any question arising in connection with such a claim to be furnished by such person as may be prescribed in accordance with the regulations;
- (i) for a claim for any one benefit to which this Article applies to be treated, either in the alternative or in addition, as a claim for any other such benefit that may be prescribed;
- (j) for the person to whom, time when and manner in which a benefit to which this Article applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
- (k) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
- (l) for the day on which entitlement to such a benefit is to begin or end;
- (m) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation;
- (n) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on

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which the right is treated under the regulations as having arisen;

- (o) for suspending payment, in whole or in part, where it appears to the Department that a question arises whether—
 - (i) the conditions for entitlement are or were fulfilled;
 - (ii) an award ought to be revised;
 - (iii) an appeal ought to be brought against an award;
- (p) for withholding payments of a benefit to which this Article applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
- (q) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person;
- (r) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
- (s) for the making of a payment on account of such a benefit—
 - (i) where no claim has been made and it is impracticable for one to be made immediately;
 - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
 - (iii) where an award has been made but it is impracticable to pay the whole immediately;
- (t) for treating any payment on account made by virtue of sub-paragraph (s) as made on account of any benefit to which this Article applies that is subsequently awarded or paid.

(2) This Article applies to the following benefits—

- (a) benefits under the principal Act;
- (b) child benefit;
- (c) income support;
- (d) family credit;
- (e) housing benefit;
- (f) a payment under paragraph 2 of Schedule 6 (Christmas bonus),

and any social fund payments such as are mentioned in Article 33(2)(a).

(3) Paragraph (1)(o) shall have effect in relation to housing benefit as if the reference to the Department were a reference to the authority paying the benefit.

(4) Paragraph (1)(g), (j), (m), (q) and (r) shall have effect as if

statutory sick pay and statutory maternity pay were benefits to which this Article applies.

Adjudication

53.—(1) Part I of Schedule 5 (which makes amendments of statutory provisions relating to social security adjudications) shall have effect.

(2) The questions to which section 93(1) of the principal Act (questions for determination by the Department) applies shall include any question specified in Part II of that Schedule.

(3) Subject to paragraphs (7) and (8), the following provisions of the principal Act shall have effect for the purposes of the benefits to which this paragraph applies as they have effect for the purposes of benefit under that Act—

- (a) sections 97 to 104 and 116 (adjudication officers, tribunals and Commissioners);
- (b) section 114 (regulations as to determination of questions);
- (c) section 115(1) and (2) and (4) to (6) and Schedule 13 (procedure);
- (d) section 117(1) and (2) (finality of decision); and
- (e) section 119 (regulations in connection with adjudications).

(4) Procedure regulations made under section 115 of the principal Act by virtue of paragraph (3) may make different provision in relation to each of the benefits to which paragraph (3) applies.

(5) Section 139(1) of the principal Act (determinations of Department to be final) shall have effect in relation to offences under Part II of the Social Security (Northern Ireland) Order 1982 and offences under this Order as it has effect in relation to offences under the principal Act.

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(6) Paragraph (3) applies to the following benefits—

- (a) child benefit;
- (b) statutory sick pay;
- (c) statutory maternity pay;
- (d) income support;
- (e) family credit,

and any social fund payments such as are mentioned in Article 33(2)(a).

(7) In their application to statutory sick pay and statutory maternity pay the provisions of the principal Act mentioned in paragraph (3) shall have effect as if—

- (a) the following subsection were substituted for section 98(1)—
“(1) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—

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- (a) by the Department; or
 - (b) subject to and in accordance with regulations, by the employee concerned,
- for determination in accordance with sections 99 to 104 below.”;
- (b) in section 99(3), for the words “notice in writing of the reference shall be given to the claimant” there were substituted the words “the employee and employer concerned shall each be given notice in writing of the reference”;
 - (c) in section 100—
 - (i) in subsection (1), for the words “claimant may” there were substituted the words “employee and employer concerned shall each have a right to”;
 - (ii) in subsection (2), for the words “claimant shall” there were substituted the words “employee and employer concerned shall each”;
 - (iii) subsection (6) were omitted; and
 - (d) the following subsection were substituted for section 101(2) to (4)—
 - “(2) The persons at whose instance an appeal lies under this section are—
 - (a) an adjudication officer;
 - (b) the employee concerned;
 - (c) the employer concerned;
 - (d) a trade union, or any other association which exists to promote the interests and welfare of its members, where—
 - (i) the employee is a member at the time of the appeal and was so immediately before the question at issue arose; or
 - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at death a member;
 - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.”.
- (8) In its application to family credit section 104(1)(b) of the principal Act shall have effect subject to Article 21(6).

Overpayments

54.—(1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—

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- (a) a payment has been made in respect of a benefit to which this Article applies; or
- (b) any sum recoverable by or on behalf of the Department in connection with any such payment has not been recovered,

the Department shall be entitled to recover the amount of any payment which the Department would not have made or any sum which the Department would have received but for the misrepresentation or failure to disclose.

(2) An amount recoverable under paragraph (1) is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.

(3) In relation to cases where payments of a benefit to which this Article applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Department is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.

(4) Except where regulations otherwise provide, an amount shall not be recoverable under paragraph (1) or regulations under paragraph (3) unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review.

(5) Regulations may provide—

- (a) that amounts recoverable under paragraph (1) or regulations under paragraph (3) shall be calculated or estimated in such manner and on such basis as may be prescribed;
- (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
 - (i) as properly paid; or
 - (ii) as paid on account of a payment which it is determined should be or should have been made, and for reducing or withholding any arrears payable by virtue of the subsequent determination;
- (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
 - (i) the other person is himself entitled to a payment for that period; or
 - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person, and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

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(6) Circumstances may be prescribed in which a payment on account made by virtue of Article 52(1)(s) may be recovered to the extent that it exceeds entitlement.

(7) Where any amount paid is recoverable under—

- (a) Article 28;
- (b) paragraph (1); or
- (c) regulations under paragraph (3) or (6),

it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

(8) Where any amount paid in respect of a married or unmarried couple is recoverable as mentioned in paragraph (7), it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.

(9) Any amount recoverable under the provisions mentioned in paragraph (7) shall, if the county court so orders, be enforceable as if it were payable under an order of that court.

(10) This Article applies to the following benefits—

- (a) benefits under the principal Act;
- (b) child benefit;
- (c) income support;
- (d) family credit,

and any social fund payments such as are mentioned in Article 33(2)(a).

(11) Regulations under section 2 of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975 may make provision in relation to allowances under that Act corresponding to the provision made by this Article in relation to the benefits to which it applies.

1975 c. 17

Breach of regulations

55. Regulations under any of the benefit Acts may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act or Order to be an offence under that Act or Order and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

False representations for obtaining benefit, etc.

56.—(1) If a person for the purpose of obtaining any benefit or other payment under any of the benefit Acts, whether for himself or some other person, or for any other purpose connected with any of

those Acts—

- (a) makes a statement or representation which he knows to be false; or
- (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

Legal proceedings

57.—(1) Any person authorised by the Department or the Department of the Environment or the Northern Ireland Housing Executive in that behalf may conduct any proceedings under the benefit Acts before a magistrates' court although not a barrister or solicitor.

(2) Notwithstanding anything in any statutory provision—

- (a) proceedings for an offence under the benefit Acts other than an offence relating to housing benefit may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to its knowledge or within a period of twelve months from the commission of the offence, whichever period last expires; and
- (b) proceedings for an offence under the benefit Acts relating to housing benefit may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Department of the Environment or the Northern Ireland Housing Executive to justify a prosecution for the offence, comes to its knowledge or within a period of twelve months from the commission of the offence, whichever period last expires.

(3) For the purposes of paragraph (2)—

- (a) a certificate purporting to be signed by the Head or a secretary, under secretary or assistant secretary of the Department or of the Department of the Environment as to the date on which such evidence as is mentioned in sub-paragraph (a) or (b) of that paragraph came to its knowledge shall be conclusive evidence of that date; and
- (b) a certificate purporting to be signed by a member of the Northern Ireland Housing Executive or by an officer of the Executive authorised by it to act for the purposes of this Article as to the date on which such evidence as is mentioned in sub-paragraph (b) of that paragraph came to its knowledge shall be conclusive evidence of that date.

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(4) Subject to paragraph (5), in proceedings for an offence under the benefit Acts, the wife or husband of the accused is competent to give evidence, whether for or against the accused.

(5) The wife or husband is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.

Offences by bodies corporate

1954 c. 33 (N.I.)

58. Section 20(2) and (3) of the Interpretation Act (Northern Ireland) 1954 (offences by bodies corporate) shall apply to the benefit Acts, whether or not any provision of those Acts is an enactment within the meaning of section 1(b) of the said Act of 1954.

Inspection

59.—(1) For the purposes of the benefit Acts, the Department may appoint such inspectors, and pay to them such salaries or remuneration, as it may determine with the consent of the Department of Finance and Personnel.

(2) An inspector appointed under this Article shall, for the purposes of the execution of the benefit Acts, have the following powers—

- (a) to enter at all reasonable times any premises liable to inspection under this Article;
- (b) to make such examination and enquiry as may be necessary—
 - (i) for ascertaining whether the provisions of any of those Acts are being, or have been, complied with in any such premises; or
 - (ii) for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for industrial injuries benefit was or may have been received or contracted;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under any of those Acts on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
 - (i) contributions under the principal Act;
 - (ii) a state scheme premium,and to require every such person to be so examined;
- (d) to exercise such other powers as may be necessary for carrying any of the benefit Acts into effect.

(3) The premises liable to inspection under this Article are any where an inspector has reasonable grounds for supposing that—

- (a) any persons are employed;
- (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services; or
- (c) a personal or occupational pension scheme is being administered,

but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

(4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of any of the benefit Acts shall, if so required, produce the certificate.

(5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Department may make arrangements with that department for any of the powers or duties of inspectors to be carried out by an inspector or officer employed by that department.

(6) In accordance with this Article, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—

- (a) whether—
 - (i) any contribution under the principal Act;
 - (ii) any state scheme premium,is or has been payable, or has been duly paid, by or in respect of any person; or
- (b) whether benefit under any of the benefit Acts is or was payable to or in respect of any person.

(7) The following persons are under the duty imposed by paragraph (6)—

- (a) the occupier of any premises liable to inspection under this Article;
- (b) any person who is or has been an employer or an employee within the meaning of any of the benefit Acts;
- (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
- (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
- (e) any person who is or has been liable to pay such contributions or premiums;
- (f) the servants or agents of any such person as is specified in any of the preceding sub-paragraphs;

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but no one shall be required under this Article to answer any questions or to give any evidence tending to incriminate himself, or, in a case of a person who is married, his or her spouse.

(8) If a person—

(a) wilfully delays or obstructs an inspector in the exercise of any power under this Order; or

(b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Order,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Where a person is convicted of an offence under paragraph (8)(b) and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is so continued.

Disclosure of information

60.—(1) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax from being disclosed to the Department or the Secretary of State, or to an officer of either of them authorised to receive such information in connection with the operation of any of the benefit Acts or of any corresponding enactment applying in Great Britain.

(2) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under paragraph (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of the trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.

(3) Paragraph (1) extends only to disclosure by or under the authority of the Commissioners of Inland Revenue; and information which is the subject of disclosure to any person by virtue of that paragraph shall not be further disclosed to any other person, except where the further disclosure is made—

(a) to a person to whom disclosure could by virtue of this Article have been made by or under the authority of the Commissioners of Inland Revenue;

(b) for the purposes of any proceedings (civil or criminal) in connection with the operation of any of the benefit Acts or of any corresponding enactment applying in Great Britain; or

- (c) for any purposes of Part III of the principal Act including that Part as extended by Article 53(3), and any corresponding provisions applying in Great Britain.

Regulations as to notification of deaths

61.—(1) Regulations may provide that it shall be the duty of the Registrar General or any registrar to furnish the Department, for the purpose of its functions under any of the benefit Acts and the functions of the Secretary of State under any corresponding enactment applying in Great Britain, with the prescribed particulars of such deaths as may be prescribed.

(2) The regulations may make provision as to the manner in which and times at which the particulars are to be furnished.

(3) In paragraph (1), “Registrar General” and “registrar” have the meanings assigned to them in the Births and Deaths Registration (Northern Ireland) Order 1976.

1976 NI 14

Subordinate legislation

Consultations on subordinate legislation

62.—(1) Nothing in any statutory provision shall require any proposals in respect of regulations to be referred to the Social Security Advisory Committee (“the Committee”) if—

- (a) it appears to the Department that by reason of the urgency of the matter it is inexpedient so to refer them; or
(b) the Committee has agreed that they shall not be referred.

(2) Where by virtue only of paragraph (1)(a) the Department makes regulations without proposals in respect of them having been referred, then, unless the Committee agrees that this paragraph shall not apply, the Department shall refer the regulations as soon as practicable after making them.

(3) Where the Department has referred proposals to the Committee, the Department may make the proposed regulations before the Committee has made its report only if after the reference it appears to the Department that by reason of the urgency of the matter it is expedient to do so.

(4) Where by virtue of this Article regulations are made before a report of the Committee has been made, the Committee shall consider them and make a report to the Department containing such recommendations with regard to the regulations as the Committee thinks appropriate; and a copy of any report made to the Department on the regulations shall be laid by it before the Assembly together, if the report contains recommendations, with a statement of the extent (if any) to which the Department proposes to give effect to the recommendations and, in so far as it does not propose to give effect to them, its reasons why not.

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(5) Nothing in any statutory provision shall require the reference to the Committee of regulations made by virtue of a statutory provision contained in this Order or passed or made before this Order, if they are—

- (a) contained in a statutory rule made before the end of a period of 12 months from the commencement of the statutory provision under which it is made; or
- (b) contained in a statutory rule which—
 - (i) states that it contains only provisions consequential on a specified statutory provision or such provisions and regulations made under that statutory provision; and
 - (ii) is made before the end of a period of 12 months from the commencement of that statutory provision.

(6) Nothing in any statutory provision shall require the reference to the Committee of regulations made by virtue of a statutory provision passed or made after the making of this Order, if they are—

- (a) contained in a statutory rule made before the end of the period of 6 months from the commencement of the statutory provision under which it is made; or
- (b) contained in a statutory rule which—
 - (i) states that it contains only provisions consequential on a specified statutory provision or such provisions and regulations made under that statutory provision; and
 - (ii) is made before the end of the period of 6 months from the commencement of that statutory provision,

unless the statutory provision by virtue of which the regulations are made excludes this paragraph in respect of the regulations.

Subordinate legislation—miscellaneous

63.—(1) The following subsection shall be inserted after subsection (3) of section 155 of the principal Act (general provisions about orders and regulations)—

“(3A) Without prejudice to any specific provision in this Act, a power conferred by this Act to make any regulations or order includes power to provide for a person to exercise a discretion in dealing with any matter.”.

(2) The following paragraph shall be added after paragraph (5) of Article 24 of the Child Benefit (Northern Ireland) Order 1975 (regulations and orders)—

“(5A) Without prejudice to any specific provision in this Order, a power conferred by this Order to make an order or regulations includes a power to provide for a person to exercise a discretion in dealing with any matter.”.

(3) In subsection (2) of section 156 of the principal Act (control of orders and regulations by the Assembly)—

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- (a) in paragraph (a), the words “wholly or partly” shall cease to have effect;
- (b) in paragraph (b), for the words “wholly or partly by virtue of” there shall be substituted the word “under”;
- (c) in paragraph (c), for the words “by virtue of” there shall be substituted the word “under”;
- (d) at the end there shall be added the words “and any regulations or order made by the Department or Department of Economic Development contained in a statutory rule which includes any regulations or order to which the foregoing paragraphs apply”.

General provisions as to operation of social security

Annual up-rating of benefits

64.—(1) Whenever the Secretary of State makes an order under section 63 of the Social Security Act 1986 the Department may make a corresponding order for Northern Ireland. 1986 c. 50

(2) An increase in a sum such as is specified in paragraph (3)(b) shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum such as is specified in paragraph (3)(a) shall be added to and form part of that pension but shall not form part of the sum increased.

(3) The sums referred to in paragraph (2) are those which are—

- (a) payable by virtue of Article 37(6) of the Pensions Order to a person who is also entitled to a Category A or Category B retirement pension (including any sum payable by virtue of Article 38(3)); or
- (b) payable to such a person as part of his Category A or Category B retirement pension by virtue of—
 - (i) an order made under this Article corresponding to an order made under section 63 of the Social Security Act 1986 by virtue of paragraph (d)(ii) of subsection (1) of that section; or
 - (ii) an order made under section 120 of the principal Act corresponding to an order made under section 126A of the Social Security Act 1975.

1975 c. 14

(4) Where any increment under Article 37(6) of the Pensions Order—

- (a) is increased in any tax year by an order under Article 39A of that Order; and
- (b) in that tax year also falls to be increased by an order under this Article,

the increase under this Article shall be the amount that would have been specified in the order, but for this paragraph, less the amount of the increase under Article 39A of the Pensions Order.

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(5) Where sums are payable to a person by virtue of Article 37(6) of the Pensions Order (including such sums payable by virtue of Article 38(3) of that Order) 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 under this Article during that period 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.

1986 c. 50

(6) The reference in paragraph (1) to an order made under section 63 of the Social Security Act 1986 includes a reference to an order made in exercise of the powers conferred by regulations made under section 24(1)(a) of the Social Security Pensions Act 1975.

1975 c. 60

Effect of alteration of rates of benefit

65.—(1) This Article applies where the rate of any relevant benefit is altered—

- (a) by a statutory provision made subsequent to this Order;
- (b) by an order under Article 64; or
- (c) in consequence of any such statutory provision or order altering any maximum rate of benefit;

and in this Article “the commencing date” means the date fixed for payment of benefit at an altered rate to commence.

(2) Subject to such exceptions or conditions as may be prescribed where—

- (a) the weekly rate of a relevant benefit is altered to a fixed amount higher or lower than the previous amount; and
- (b) before the commencing date an award of that benefit has been made (whether before or after the making of the relevant statutory provision or order (referred to in paragraph (1)(a) or (b))),

except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.

(3) Where—

- (a) the weekly rate of a relevant benefit is altered; and
- (b) before the commencing date (but after that date is fixed) an award is made of the benefit,

the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.

(4) Where in consequence of the making of a statutory provision altering the rate of disablement pension under section 57 of the

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principal Act, regulations are made varying the scale of disablement gratuities under subsection (5) of that section, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.

(5) Subject to such exceptions or conditions as may be prescribed, where—

- (a) for any purpose of any statutory provision the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
- (b) account is to be taken of amounts referable to the period before the commencing date,

those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.

(6) In this Article “relevant benefit” means benefit under the principal Act or the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975.

1975 c. 17

Reciprocal arrangements

66.—(1) At the end of subsection (3)(b) of section 133 of the principal Act (co-ordination with Great Britain) there shall be added “(but not so as to confer any double benefit) and for determining, in cases where rights accrue both in relation to Northern Ireland and in relation to Great Britain, which of those rights shall be available to the person concerned”.

(2) In subsection (1) of section 134 of that Act (reciprocity with other countries)—

- (a) for the words from “reciprocity” to the end of paragraph (c) there shall be substituted the words “reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act”; and
- (b) the words “relating to social security” shall cease to have effect.

(3) In paragraph (1) of Article 17 of the Child Benefit (Northern Ireland) Order 1975 (reciprocal agreements with countries outside the United Kingdom) the words “relating to child benefit” shall cease to have effect.

1975 NI 16

(4) Articles 16 and 17 of the Child Benefit (Northern Ireland) Order 1975 (reciprocal arrangements with Great Britain and reciprocal agreements with countries outside the United Kingdom) shall have effect in relation to income support, family credit and housing benefit as they have effect in relation to child benefit, references in

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them to Part II of that Order being construed as including references to this Order.

PART VIII

MISCELLANEOUS, GENERAL AND SUPPLEMENTARY

Miscellaneous

Pensioners' Christmas bonus

67. Schedule 6 (which makes provision relating to payments for pensioners) shall have effect.

Rates of payments of statutory sick pay and provisions as to recovery

1982 NI 16

68.—(1) The following paragraphs shall be inserted after paragraph (1) of Article 9 of the Social Security (Northern Ireland) Order 1982 (rate of payment of statutory sick pay)—

“(1A) The Department may by regulations—

(a) substitute alternative provisions for paragraph (1)(a) to (c); and

(b) make such consequential amendments of any provision contained in this Order as appear to the Department to be required.

(1B) Section 156(1) of the principal Act (regulations and orders subject to confirmatory procedure) shall apply to regulations under paragraph (1A) and to any regulations contained in a statutory rule which includes regulations under that paragraph.”.

(2) The following sub-paragraph shall be substituted for paragraph (1A)(a) of Article 11 of that Order (recovery by employers of amounts paid by way of statutory sick pay)—

“(a) giving any employer who has made a payment of statutory sick pay a right, except in prescribed circumstances, to an amount, determined in such manner as may be prescribed;”.

Liability of Department to pay statutory sick pay in prescribed circumstances

1982 NI 16

69. The following paragraphs shall be added at the end of Article 3 of the Social Security (Northern Ireland) Order 1982—

“(5) Circumstances may be prescribed in which, notwithstanding the foregoing provisions of this Article, the liability to make payments of statutory sick pay is to be a liability of the Department.

(6) Any sums paid under regulations made by virtue of paragraph (5) shall be paid out of the National Insurance Fund.”.

Repeal of section 92 of the principal Act

70. Section 92 of the principal Act (which relates to arrangements

to forgo benefit in return for unabated sick pay) shall cease to have effect.

Child benefit in respect of children educated otherwise than at educational establishments

71.—(1) In Article 4 of the Child Benefit (Northern Ireland) Order 1975 (meaning of “child”)—

1975 NI 16

- (a) in sub-paragraph (b) of paragraph (1), for the words “by attendance at a recognised educational establishment” there shall be substituted the words “either by attendance at a recognised educational establishment or, if the education is recognised by the Department, elsewhere”; and
- (b) the following paragraphs shall be inserted after that paragraph—

“(1A) The Department may recognise education provided otherwise than at a recognised educational establishment for a person who, in the opinion of the Department, could reasonably be expected to attend such an establishment only if the Department is satisfied that education was being so provided for that person immediately before he attained the age of sixteen.

(1B) Regulations may prescribe the circumstances in which education is or is not to be treated for the purposes of this Order as full-time.”

(2) Regulations purporting to be made under Article 2(2) of that Order and made before the making of this Order shall be treated as validly made.

Entitlement to mobility allowance—general

72.—(1) In paragraph (a) of section 37A(2) of the principal Act (duration of inability or virtual inability to walk for the purposes of entitlement to mobility allowance) for the words “time when a claim for the allowance is received by the Department” there shall be substituted the words “relevant date”.

(2) The following subsections shall be inserted after that subsection—

“(2A) Subject to subsection (2B) below, in subsection (2)(a) above “the relevant date” means the date on which the claimant’s inability or virtual inability to walk commenced or the date on which his claim was received or treated as received by the Department, whichever is the later.

(2B) Where—

- (a) a claimant is awarded an allowance for a period; and
 - (b) he subsequently claims an allowance for a further period,
- the relevant date is the first date not earlier than the end of the

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period for which the allowance was awarded on which the claimant was unable or virtually unable to walk.

(2C) Regulations may make provision—

- (a) for permitting an award on a claim for a mobility allowance to be made either as from the date on which the claim is received or treated as received by the Department or for a period beginning after that date subject to the condition that the person in respect of whom the claim is made satisfies the prescribed requirements for entitlement when benefit becomes payable under the award;
- (b) for the review of any such award if those requirements are found not to have been satisfied.”

(3) Section 37A(6) (under which, except so far as may be provided by regulations, the question of a person's entitlement to a mobility allowance falls to be determined as at the time when a claim for the allowance is received by the Department) shall cease to have effect.

(4) Where—

- (a) it has been determined that a person was entitled to mobility allowance; and
- (b) the claim should have been determined as at the date when it was received by the Department, but was determined as at a later date,

the fact that the claim was determined as at that date shall not invalidate the determination.

(5) Where the Department has made a payment to a person who has claimed mobility allowance on the ground that if the person's claim had been received by the Department at a date later than that on which it was in fact received, the person would have been entitled to mobility allowance—

- (a) the payment shall be treated as a payment of mobility allowance; and
- (b) the person shall be treated as having been entitled to mobility allowance for the period in respect of which the payment was made.

Entitlement of certain women to mobility allowance

73. In relation to women born after 6th June 1918 but before 21st December 1919 Articles 24 and 74(1) of the Pensions Order, paragraphs 29 and 31 to 33 of Schedule 5 to that Order and Article 4(2) of the Social Security (Northern Ireland) Order 1979 shall be deemed to have come into force—

- (a) for the purposes of the making of claims for, and the determination of claims and questions relating to, mobility allowance, on 11th April 1979; and
- (b) for all other purposes, on 6th June 1979.

Application of provisions of Order to supplementary benefit, etc.

74. Schedule 7 shall have effect for the purpose of making provision in relation to the benefits there mentioned.

National Insurance contributions

75.—(1) In section 128 of the principal Act (appropriate employment protection allocation) the following subsections shall be inserted after subsection (5)—

“(5A) Without prejudice to section 120 above, the Department may, with the consent of the Department of Finance and Personnel, by order amend this section, in relation to any tax year beginning after the tax year 1986–87—

- (a) by substituting a different percentage for the percentage for the time being specified in paragraph (i) or (ii) of subsection (4) above or for each of the percentages specified in those paragraphs;
- (b) by directing that there shall be no appropriate employment protection allocation; or
- (c) by directing that there shall be an appropriate employment protection allocation only in the case of primary Class 1 contributions or only in the case of secondary Class 1 contributions.

(5B) At any time when an order under subsection (5A) above containing a direction under paragraph (b) of that subsection is in force, the Department may, with the consent of the Department of Finance and Personnel, by order direct that there shall be an appropriate employment protection allocation of such percentage in the case of primary Class 1 contributions or secondary Class 1 contributions, or both, as may be specified in the order.

(5C) At any time when an order under subsection (5A) containing a direction under paragraph (c) of that subsection is in force, the Department may, with the consent of the Department of Finance and Personnel, by order direct that there shall be an appropriate employment protection allocation of such percentage as may be specified in the order in the case of the description of contributions in whose case there is, by virtue of the direction, no such allocation.

(5D) Any percentage specified as an allocation by an order under subsection (5B) or (5C) above shall be deemed to be inserted at the appropriate place in subsection (4) above and an order under subsection (5A)(a) above may accordingly be made in respect of it.”.

(2) In section 156(2)(b) of that Act (orders subject to confirmatory procedure) after the entry relating to section 128(4A) there shall be inserted “section 128(5A), (5B) or (5C) (alteration of employment protection allocation);”.

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(3) The powers to prescribe equivalents of a limit or bracket under section 4 of, and paragraph 1(1C) of Schedule 1 to, that Act include power to prescribe an amount not more than £1.00 more than the amount which is the arithmetical equivalent of the limit or bracket.

(4) In Article 3(2) of the Pensions Order (lower earnings limit) for “49p” there shall be substituted “99p”.

Earnings factors

1977 NI 11 **76.** The principal Act, the Pensions Order and the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 shall be amended in accordance with Schedule 8 in relation to earnings factors for the tax year in which this Article comes into operation and subsequent tax years.

Amendments relating to forfeiture of benefits

1982 NI 14 **77.—**(1) The following paragraphs shall be inserted after paragraph (1) of Article 6 of the Forfeiture (Northern Ireland) Order 1982 (Social Security Commissioner to determine whether forfeiture rule applies to social security benefits)—

“(1A) Where a Commissioner determines that the forfeiture rule has precluded a person (in this Article referred to as “the offender”) who has unlawfully killed another from receiving the whole or part of any such benefit or advantage, the Commissioner may make a decision under this paragraph modifying the effect of that rule and may do so whether the unlawful killing occurred before or after the coming into operation of this paragraph.

(1B) The Commissioner shall not make a decision under paragraph (1A) modifying the effect of the forfeiture rule in any case unless he is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the Commissioner to be material, the justice of the case requires the effect of the rule to be so modified in that case.

(1C) Subject to paragraph (1D), a decision under paragraph (1A) may modify the effect of the forfeiture rule in either or both of the following ways—

- (a) so that it applies only in respect of a specified proportion of the benefit or advantage;
- (b) so that it applies in respect of the benefit or advantage only for specified period of time.

(1D) Such a decision may not modify the effect of the forfeiture rule so as to allow any person to receive the whole or any part of a benefit or advantage in respect of any period before the commencement of this paragraph.

(1E) If the Commissioner thinks it expedient to do so, he may direct that his decision shall apply to any future claim for a benefit or advantage under a relevant enactment, on which a question

such as is mentioned in paragraph (1) arises by reason of the same unlawful killing.

(1F) It is immaterial for the purposes of paragraph (1E) whether the claim is in respect of the same or a different benefit or advantage.

(1G) For the purpose of obtaining a decision whether the forfeiture rule should be modified the Department of Health and Social Services may refer to a Commissioner for review any determination of a question such as is mentioned in paragraph (1) that was made before the commencement of paragraphs (1A) to (1F) (whether by a Commissioner or not) and shall do so if the offender requests that Department to refer such a determination.

(1H) Paragraphs (1A) to (1F) shall have effect on a reference under paragraph (1G) as if in paragraph (1A) the words "it has been determined" were substituted for the words "a Commissioner determines".

(2) In paragraph (2) of that Article, after the words "that paragraph" there shall be inserted the words "or any decision under paragraph (1A)".

(3) In Article 7 (exclusion of murderers) after "Article 5(1)" insert "or on any decision made under Article 6(1A)".

Travelling expenses

78. The Department may pay such travelling expenses as, with the consent of the Department of Finance and Personnel, the Department may determine—

- (a) to persons required by the Department to attend an interview in connection with the operation of any of the benefit Acts;
- (b) to persons attending social security offices of the Department in connection with the operation—
 - (i) of any of the benefit Acts; or
 - (ii) of any prescribed statutory provision.

General

Crown employment

79.—(1) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of Articles 3 to 18.

(2) A person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of Articles 3 to 17 as an employed earner in respect of his membership of those forces.

(3) The provisions of this Order relating to family credit apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

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(4) Subject to paragraph (5), the provisions of Part VI apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

(5) The provisions of that Part do not apply in relation to persons serving as members of Her Majesty's forces, in their capacity as such.

(6) For the purposes of this Article Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State, being establishments and organisations in which persons serve under the control of the Defence Council.

Application of Parts II and VI to special cases

80.—(1) Regulations may modify Parts II and VI, in such manner as the Department thinks proper, in their application to any person who is, or has been, or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft;
- (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations.

(2) Regulations under paragraph (1) may in particular provide—

- (a) for any provision of either of those Parts to apply to any such person, notwithstanding that it would not otherwise apply;
- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Northern Ireland;
- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Northern Ireland, by a British consular official or such other person as may be determined.

(3) In this Article "continental shelf operations" means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section.

1982 c. 23

Supplementary

Orders and regulations (general provisions)

81.—(1) Section 155(1) to (3A) of the principal Act (extent of powers) shall apply to powers conferred by this Order to make regulations or orders as they apply to any power to make regulations or orders conferred by that Act but as if for references to that Act there were substituted references to this Order.

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(2) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, any power conferred by this Order to make orders or regulations relating to housing benefit shall include power to make different provision for different areas. 1954 c. 33 (N.I.)

(3) Section 156(1) of the principal Act shall apply to—

- (a) regulations under Article 7(15)(a);
- (b) regulations under Part III which are made before the coming into operation of that Part;
- (c) an order under Article 64;
- (d) an order under paragraph 2(3)(b) of Schedule 6,

and any regulations or order made by the Department and contained in a statutory rule which includes any regulation or order to which the foregoing sub-paragraphs apply.

(4) All regulations and orders made by the Department under this Order, other than those to which paragraph (3) applies and orders under Article 1, shall be subject to negative resolution.

(5) Regulations under Part III relating to housing benefit administered by the Department of the Environment under Article 29(2)(b) shall not be made without the consent of that Department.

(6) An order under Article 82 shall not be made without the consent of the Department of Finance and Personnel.

(7) A power conferred on the Department by this Order to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Department of Finance and Personnel, shall if that Department so directs be exercisable only in conjunction with it.

(8) The following provisions, namely—

- section 155(8) of the principal Act (regulation-making power exercisable by statutory instrument, etc.); and
- section 142(5) of the Social Security Act 1975 (application of provision relating to Parliamentary control of statutory instruments),

1975 c. 14

as they apply to regulations made by the Secretary of State under section 123(3) of the principal Act, apply also to regulations made by him under Article 79(6).

Financial provision

82.—(1) There shall be paid out of the National Insurance Fund—

- (a) minimum contributions paid by the Department under Part II;
- (b) payments by the Department under Article 9;
- (c) sums falling to be paid by or on behalf of the Department under regulations made by virtue of Article 47(8)(b) or paragraph 1(b) or (e) of Schedule 4; and

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(d) any sums paid to a person under Schedule 6 if the relevant qualifying benefit to which the person is entitled or treated as entitled is a benefit payable out of that fund.

(2) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Department of Finance and Personnel may direct, such sums as the Department may estimate (in accordance with any directions given by the Department of Finance and Personnel)—

(a) to be the amount of the administrative expenses incurred by the Department under Part VI, excluding any category of expenses which the Department of Finance and Personnel may direct, or any statutory provision may require, to be excluded from the Department's estimate under this paragraph; and

(b) to be the amount of the administrative expenses incurred by a government department under Schedule 6.

(3) Subject to paragraphs (4) and (5), so far as it relates to payments out of money appropriated by Measure, any sum recovered by the Department under this Order shall be paid into the Consolidated Fund.

(4) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.

(5) So far as any such sum relates to a payment out of the social fund, it shall be paid into that fund.

(6) There shall also be paid into the National Insurance Fund sums recovered under Article 3(6) or 3(7) or 9(8) or 9(9) any personal pension protected rights premium and sums recovered by the Department by virtue of regulations under section 2 of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975 making provision corresponding to that made by or by virtue of this Order.

1975 c. 17

(7) There shall be made out of the National Insurance Fund into the Consolidated Fund or out of money appropriated by Measure into the National Insurance Fund such payments by way of adjustment as the Department determines (in accordance with any direction of the Department of Finance and Personnel) to be appropriate in consequence of the operation of any statutory provision relating to statutory sick pay or statutory maternity pay.

(8) Where such adjustments fall to be made, the amount of the payments to be made shall be taken to be such, in such cases as may be specified by the Department by order, and payments on account thereof shall be made at such times and in such manner as may be determined by the Department in accordance with any direction given by the Department of Finance and Personnel.

(9) There shall be made—

(a) out of the social fund into the Consolidated Fund or the National Insurance Fund;

(b) into the social fund out of money appropriated by Measure or the National Insurance Fund,

such payments by way of adjustment as the Department determines (in accordance with any directions of the Department of Finance and Personnel) to be appropriate in consequence of any statutory provision relating to the repayment or offsetting of a benefit under any of the benefit Acts or other payments under any of those Acts.

(10) Where in any other circumstances payments fall to be made by way of adjustment—

(a) out of the social fund into the Consolidated Fund or the National Insurance Fund; or

(b) into the social fund out of money appropriated by Measure or the National Insurance Fund,

then, in such cases as may be specified by the Department by order, the amount of the payments to be made shall be taken to be such, and payments on account of it shall be made at such times and in such manner, as may be determined by the Department in accordance with any direction given by the Department of Finance and Personnel.

(11) In this Article “the National Insurance Fund” means the Northern Ireland National Insurance Fund.

Minor and consequential amendments and repeals

83.—(1) The statutory provisions mentioned in Schedule 9 shall have effect with the amendments there specified.

(2) The statutory provisions mentioned in Schedule 10 are repealed to the extent specified in the third column of that Schedule.

Transitional

84.—(1) Regulations may make such transitional and consequential provision (including provision modifying any statutory provision (including this Order)) or saving as the Department considers necessary or expedient in preparation for or in connection with the coming into operation 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 operation.

(2) Without prejudice to paragraph (1), the Lord Chancellor may by regulations make such transitional and consequential provision (including provision modifying any statutory provision (including this Order)) or saving as he considers necessary or expedient in preparation for or in connection with the coming into operation of Article 53 (including Schedule 5) 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 operation.

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1946 c. 36

(3) Regulations made by the Lord Chancellor under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

G. I. de Deney,
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 4.

APPROPRIATE PERSONAL PENSION SCHEMES

Interpretation

1. In this Schedule—

- “member” means a member of a scheme;
- “rules” means the rules of a scheme; and
- “scheme” means a personal pension scheme.

Requirements: general

2. The Department may prescribe descriptions of persons by whom or bodies by which a scheme may be established and, if the Department does so, a scheme may only be established by a person or body of a prescribed description.
3. A scheme must comply with such requirements as may be prescribed as regards the investment of its resources and with any direction of the Occupational Pensions Board that—
- (a) no part, or no more than a specified proportion, of the scheme’s resources shall be invested in investments of a specified class or description;
 - (b) there shall be realised, before the end of a specified period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme’s resources when the direction is given.
4. A scheme must comply with such requirements as may be prescribed as regards the part—
- (a) of any payment or payments that are made to the scheme by or on behalf of a member;
 - (b) of any income or capital gain arising from the investment of payments such as are mentioned in sub-paragraph (a); or
 - (c) of the value of rights under the scheme,
- that may be used—
- (i) to defray the administrative expenses of the scheme;
 - (ii) to pay commission; or
 - (iii) in any other way which does not result in the provision of benefits for or in respect of members.
- 5.—(1) Subject to sub-paragraph (2), all minimum contributions which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member, except so far as they are used—
- (a) to defray the administrative expenses of the scheme; or
 - (b) to pay commission.
- (2) If regulations are made under paragraph 4, minimum contributions may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.
6. A scheme must satisfy such other requirements as may be prescribed.

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Requirements: protected rights

7.—(1) Unless the rules make provision such as is mentioned in sub-paragraph (2), the protected rights of a member are his rights to money purchase benefits under the scheme.

(2) Rules may provide that a member's protected rights are his rights under the scheme which derive from any payment of minimum contributions to the scheme, together with any rights of his to money purchase benefits which derive from protected rights under another personal pension scheme or protected rights (within the meaning of the Pensions Order) under an occupational pension scheme which have been the subject of a transfer payment and such other rights as may be prescribed.

(3) Where rules make such provision as is mentioned in sub-paragraph (2), they shall also make provision for the identification of the protected rights.

(4) The value of protected rights such as are mentioned in sub-paragraph (2)—

(a) shall be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated;

(b) subject to that, shall be calculated and verified in such manner as may be prescribed.

(5) The power to make regulations conferred by sub-paragraph (4) includes power to provide that protected rights such as are mentioned in sub-paragraph (2) are to be calculated and verified in such manner as may be approved in particular cases—

(a) by prescribed persons; or

(b) by persons with prescribed professional qualifications or experience;
or

(c) by persons approved by the Department,

and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.

8. Rules must provide for effect to be given in a manner permitted by paragraph 9 to the protected rights of every member and must not provide for any part of any member's protected rights to be discharged in any other way.

9.—(1) Effect may be given to protected rights—

(a) by the provision by the scheme of a pension which—

(i) complies with the requirements of sub-paragraph (7); and

(ii) satisfies such conditions as may be prescribed; or

(b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment—

(i) to another personal pension scheme; or

(ii) to an occupational pension scheme, where the scheme to which the payment is made satisfies such requirements as may be prescribed.

(2) If—

(a) the rules of the scheme do not provide for a pension; or

(b) the member so elects,

effect may be given to protected rights by the purchase by the scheme of an

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annuity which—

- (i) complies with the requirements of sub-paragraphs (7) and (8); and
- (ii) satisfies such conditions as may be prescribed.

(3) Effect may be given to protected rights by the provision of a lump sum if—

- (a) the lump sum is payable on a date which is either the date on which the member attains pensionable age or such later date as has been agreed by him; and
- (b) the annual rate of a pension under sub-paragraph (1) or an annuity under sub-paragraph (2) giving effect to the protected rights and commencing on the date on which the lump sum is payable would not exceed the prescribed amount; and
- (c) the circumstances are such as may be prescribed; and
- (d) the amount of the lump sum is calculated in a manner satisfactory to the Occupational Pensions Board by reference to the amount of the pension or annuity.

(4) If the member has died without effect being given to protected rights under sub-paragraph (1), (2) or (3), effect may be given to them in such manner as may be prescribed.

(5) No transaction is to be taken to give effect to protected rights unless it falls within this paragraph.

(6) Effect need not be given to protected rights if they have been extinguished by the payment of a personal pension protected rights premium.

(7) A pension or annuity complies with this sub-paragraph if—

- (a) it commences—
 - (i) on the date on which the member attains pensionable age; or
 - (ii) on such later date as has been agreed by him, and continues until the date of his death;
- (b) in a case where the member dies while it is payable to him and is survived by a widow or widower—
 - (i) it is payable to the widow or widower in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
 - (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in a manner satisfactory to the Occupational Pensions Board is provided in lieu of it.

(8) An annuity complies with the requirements of this sub-paragraph if it is provided by an insurance company which—

- (a) satisfies prescribed conditions;
- (b) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and
- (c) subject to sub-paragraph (9), has been chosen by the member.

(9) A member is only to be taken to have chosen an insurance company if

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he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the insurance company instead.

10. The Occupational Pensions Board must be satisfied that a scheme complies with any such requirements as may be prescribed for meeting the whole or a prescribed part of any liability in respect of protected rights under the scheme which the scheme is unable to meet from its own resources—

- (a) by reason of the commission by any person of a criminal offence;
- (b) in such other circumstances as may be prescribed.

11. Rules must not allow, except in such circumstances as may be prescribed, the suspension or forfeiture of a member's protected rights or of payments giving effect to them.

General

12. Nothing in this Schedule shall be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval.

Article 8.

SCHEDULE 2

MONEY PURCHASE CONTRACTED-OUT SCHEMES

1. The Pensions Order shall be amended as follows.
2. In Article 2(2) (interpretation)—
 - (a) before the definition of "the Department" insert the following definition—

““average salary benefits” means benefits the rate or amount of which is calculated by reference to a member's average salary over the period of service on which the benefits are based;”;
 - (b) after the definition of "long-term benefit" insert the following definitions—

““minimum payments” shall be construed in accordance with Article 32;

“money purchase benefits” in relation to an occupational pension scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by a member of the scheme or by any other person in respect of a member, other than average salary benefits;

“money purchase contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of satisfying Article 34(2A);”;
 - (c) after the definition of "the principal Act" insert the following definition—

““protected rights” has the meaning given by Schedule 1 to the Social Security (Northern Ireland) Order 1986 with the substitution made by Article 34(2B);”.
3. In paragraph (1) of Article 28 (contracting-out of full contributions and benefits), after "provides" insert "or falls to be treated as providing".

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4. In Article 31 (contracted-out rates of benefit), after paragraph (2) insert the following paragraphs—

“(2A) Subject to paragraph (2B), where for any period minimum payments have been made in respect of an earner to an occupational pension scheme which, in relation to the earner’s employment, is a money purchase contracted-out scheme, then, for the purposes of this Article and sections 16(2B), 28(7A) and 59(1A) of the principal Act—

- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment; and
- (b) in prescribed circumstances, in relation to any widow or widower of the earner—
 - (i) if the earner died after reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under sub-paragraph (a); and
 - (ii) if the earner died before reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.

(2B) Where the earner is a married woman or widow, paragraph (2A) shall not have effect in relation to any period during which an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate is operative.

(2C) The power to prescribe a rate conferred by paragraph (2A)(a) includes power to prescribe a nil rate.”

5. In Article 32 (contracted-out employment)—

- (a) in paragraph (1)(a), after “scheme” insert “or his employer makes minimum payments in respect of the earner’s employment to a money purchase contracted-out scheme”;
- (b) after paragraph (1) insert the following paragraphs—

“(1A) The minimum payment in respect of an earner for any tax week shall be the rebate percentage of so much of the earnings paid to or for the benefit of the earner as exceeds the lower earnings limit for the tax week but does not exceed the upper earnings limit for it; and in this paragraph “rebate percentage” means the percentage arrived at by adding—

- (a) the percentage by which for the time being under Article 29(2) the contracted-out percentage of primary Class 1 contributions is less than the normal percentage; and
- (b) the percentage by which for the time being under that paragraph the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.

(1B) The references to the upper and lower earnings limits in paragraph (1A) are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the principal Act.

(1C) Regulations may make provision—

- (a) for the manner in which, and time at which or period within

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- which, minimum payments are to be made;
- (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;
 - (c) for calculating the amounts payable according to a scale prepared from time to time by the Department or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
 - (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
 - (e) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid;
 - (f) without prejudice to sub-paragraph (e), for enabling the Department, where it is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;
 - (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
 - (h) for this Article to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period."

6. In Article 34 (contracted-out schemes)—

- (a) in paragraph (2), insert after sub-paragraph (b) (but not as part of it) "or it satisfies paragraph (2A).";
- (b) after paragraph (2) insert the following paragraphs—
 - "(2A) An occupational pension scheme satisfies this paragraph only if—
 - (a) the requirements imposed by or by virtue of Schedule 1 to the Social Security (Northern Ireland) Order 1986, modified under paragraph (2B), are satisfied in its case;
 - (b) it complies with Article 42(1); and
 - (c) the rules of the scheme applying to protected rights are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.
 - (2B) The modifications of Schedule 1 to the Social Security (Northern Ireland) Order 1986 are—

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- (a) that for the references to a personal pension scheme there shall be substituted references to an occupational pension scheme;
- (b) that for the references in paragraph 5 to minimum contributions there shall be substituted references to minimum payments and any payments by the Department under Article 9 of the said Order of 1986;
- (c) that for paragraph 7(2) there shall be substituted—
 - “(2) The rules of the scheme may provide that a member’s protected rights are his rights under the scheme which derive from the payment of minimum payments (within the meaning of the Pensions Order) together with any payments by the Department to the scheme under Article 9 in respect of the member and any rights of the member to money purchase benefits which derive from protected rights (within the meaning of the Pensions Order) under another occupational pension scheme or protected rights under a personal pension scheme which have been the subject of a transfer payment and such other rights as may be prescribed.”;
- (d) that in paragraph 9—
 - (i) for the reference to an occupational pension scheme there shall be substituted a reference to a personal pension scheme; and
 - (ii) for the reference to a personal pension protected rights premium there shall be substituted a reference to a contracted-out protected rights premium; and
- (e) that paragraph 10 shall not apply to public service pension schemes.

(2C) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of paragraph (2) or paragraph (2A); and where a scheme satisfies both of those paragraphs the employers, in their application for a certificate, shall specify one of the paragraphs as the paragraph by virtue of which they desire the scheme to be contracted-out.

(2D) A scheme which has been contracted-out by virtue of one of those paragraphs may not become contracted-out by reason of the other, except in prescribed circumstances.”.

7.—(1) Insert “which is not a money purchase contracted-out scheme” after “occupational pension scheme” in—

- (a) Article 35(1);
- (b) Article 38(1);
- (c) Article 42(3) and (4);
- (d) Article 43A(1);
- (e) Article 44(1);
- (f) Article 46(1);
- (g) Article 46A(1);
- (h) Article 47(1);
- (i) Article 52;
- (j) paragraph 4(1) and (2) of Schedule 2.

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(2) If Article 11 of this Order comes into operation after this paragraph, the amendment to the said Article 38(1) of the Pensions Order made by sub-paragraph (1) shall be made in Article 38(1) both as amended by Article 11 and as unamended.

(3) Insert “or a money purchase contracted-out scheme” after “public service pension scheme” in—

- (a) Article 42(2);
- (b) Article 43(1);
- (c) Article 43E(1).

8. After Article 46 insert the following Article—

“Money purchase schemes: contracted-out protected rights premium

46ZA.—(1) In the case of a scheme which is or has been a money purchase contracted-out scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.

(2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—

- (a) have withdrawn their approval of previously approved arrangements relating to it; or
- (b) have declined to approve arrangements relating to it,

the Board may issue a certificate to that effect.

(3) A certificate issued under paragraph (2)(a) or (b) shall be cancelled by the Board if they subsequently approve the arrangements.

(4) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances,—

- (a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements and have not been disposed of so as to discharge the trustees or managers of the scheme under Article 53C or paragraph 16 of Schedule 1A; and
- (b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements.

(5) A premium under paragraph (4) may be referred to as a “contracted-out protected rights premium”.

(6) A contracted-out protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Department.

(7) The amount of a contracted-out protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.

(8) Where a contracted-out protected rights premium is paid in respect of a person—

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- (a) the rights whose cash equivalent is included in the premium shall be extinguished; and
- (b) Article 31(2) and (2A) of this Order and Article 6 of the Social Security (Northern Ireland) Order 1986 shall have effect in relation to that person and a widow or widower of that person as if any guaranteed minimum pension to which that person or any such widow or widower is treated as entitled under those provisions, and which derives from the minimum payments, minimum contributions (within the meaning of the Social Security (Northern Ireland) Order 1986) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.

(9) In paragraph (8) "the appropriate percentage" means, subject to the following provisions of this Article,

$$\frac{X}{Y} \times 100,$$

where—

- (a) X = the amount of the premium together with, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—
 - (i) the cash equivalent, calculated and verified in the prescribed manner, and paid to the Department within the prescribed period, of any other rights which he has under the scheme and specifies in the notice; and
 - (ii) the amount of any voluntary contribution paid to the Department within the prescribed period by, or in respect of, the person concerned; and
- (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in paragraph (8).

(10) If the appropriate percentage, as calculated under paragraph (9) would fall between two whole numbers, it is to be taken to be the lower number.

(11) If it would be over 100, it is to be taken to be 100.

(12) The remainder after the reduction for which paragraph (8) provides—

- (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence; and
- (b) if it would be less than a prescribed amount, is to be treated as nil.

(13) The power to make regulations conferred by paragraphs (7) and (9) includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—

- (a) by prescribed persons;
 - (b) by persons with prescribed professional qualifications or experience; or
 - (c) by persons approved by the Department,
- and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.

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- (14) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Department, and in calculating and certifying it the Department—
- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables; and
 - (b) may make such adjustments as the Department thinks necessary for avoiding fractional amounts.”.
9. In Article 49 (guaranteed minimum pensions to be inalienable)—
- (a) in paragraph (1)—
 - (i) after “scheme”, in the first place where it occurs, insert “or to payments giving effect to protected rights under such a scheme”; and
 - (ii) after “pension”, where it occurs in sub-paragraphs (a) and (b) insert “or those payments”; and
 - (b) in paragraph (3), for the words from “any”, in the first place where it occurs, to “not” substitute “nothing whose assignment is or would be made void by that paragraph shall”.
10. In Article 50 (supervision of schemes which have ceased to be contracted-out)—
- (a) for paragraph (1)(b) substitute the following sub-paragraph—
 - “(b) there has not been a payment—
 - (i) of a premium under Article 46 in respect of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme; or
 - (ii) of a premium under Article 46ZA in respect of each person who has protected rights under it or is entitled to any benefit giving effect to protected rights under it;”;
 - (b) in paragraph (2)(a), after “43(1)” insert “or, by virtue of paragraphs (2A) and (2B) of Article 34, paragraph 10 of Schedule 1 to the Social Security (Northern Ireland) Order 1986”; and
 - (c) in paragraph (5), for “35” substitute “34”.
11. At the end of paragraph (3) of Article 51 (alteration of rules of contracted-out schemes) add “or any person has protected rights under it or is entitled to any benefit giving effect to protected rights under it”.
12. In paragraph 2 of Schedule 4 (priority in bankruptcy, etc.)—
- (a) after sub-paragraph (1) insert the following sub-paragraph—
 - “(1A) The said section 144 shall have effect as if the debts specified in subsection (2) of that section also included any sum owed on account of an employer’s minimum payments to a contracted-out scheme falling to be made in the period of twelve months immediately preceding the date of the relevant event.”; and
 - (b) in sub-paragraph (2)—
 - (i) after “contributions” insert “or payments”; and
 - (ii) after “sub-paragraph (1)” insert “or (1A)”.

SCHEDULE 3

Article 40.

INDUSTRIAL INJURIES AND DISEASES

The principal Act

1. The principal Act shall have effect as provided by this Schedule.
2. For section 50(1) substitute the following subsection—
 - “(1) Subject to the provisions of this Act, industrial injuries benefit shall be payable where an employed earner suffers personal injury caused after 4th July 1948 by accident arising out of and in the course of his employment, being employed earner’s employment.”.
- 3.—(1) In subsection (1) of section 57 (disablement benefit), for “1 per cent.” substitute “14 per cent.”.
 - (2) After that subsection insert the following subsections—
 - “(1A) In the determination of the extent of an employed earner’s disablement for the purposes of this section there may be added to the percentage of the disablement resulting from the relevant accident the assessed percentage of any present disablement of his resulting from any other accident after 4th July 1948 which arose out of and in the course of his employment, being employed earner’s employment, and in respect of which a disablement gratuity was not paid to him under this Act after a final assessment of his disablement.
 - (1B) Subject to subsection (1C) below, where the assessment of disablement is a percentage between 20 and 100 which is not a multiple of 10, it shall be treated—
 - (a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10; and
 - (b) if it is not a multiple of 5, as being the nearest percentage which is a multiple of 10,and where it is a percentage of 14 or more but less than 20 it shall be treated as a percentage of 20.
 - (1C) Where subsection (1A) above applies, subsection (1B) above shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.”.
 - (3) Subsection (5) of that section shall cease to have effect except in relation to cases where the claim for benefit was made before this paragraph comes into operation.
 - (4) Subsection (6) shall have effect, except in relation to such cases, as if the words “Where disablement benefit is payable for a period, it shall be paid” were substituted for the words from the beginning to “payable”.
4. Sections 58 and 59 and 64 to 66 (unemployability supplement) shall cease to have effect, except in relation to beneficiaries in receipt of unemployability supplement immediately before this paragraph comes into operation.
- 5.—(1) After section 59 insert the following section—

“Reduced earnings allowance. 59A.—(1) Subject to the provisions of this Part of this Act, an employed earner shall be entitled to reduced earnings allowance if—

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- (a) he is entitled to a disablement pension or would be so entitled if that pension were payable where disablement is assessed at not less than 1 per cent.;
- (b) as a result of the relevant loss of faculty, he is either—
 - (i) incapable, and likely to remain permanently incapable, of following his regular occupation; and
 - (ii) incapable of following employment of an equivalent standard which is suitable in his case, or is, and has at all times since the end of the period of 90 days referred to in section 57(4) above been, incapable of following that occupation or any such employment.

(2) The Department may by regulations provide that in prescribed circumstances employed earner's employment in which a claimant was engaged when the relevant accident took place but which was not his regular occupation is to be treated as if it had been his regular occupation.

(3) In subsection (1) above—

- (a) references to a person's regular occupation are to be taken as not including any subsidiary occupation, except to the extent that they fall to be treated as including such an occupation by virtue of regulations under subsection (2) above; and
- (b) employment of an equivalent standard is to be taken as not including employment other than employed earner's employment;

and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard is to be had to his reasonable prospect of advancement.

(4) For the purposes of this section a person's regular occupation is to be treated as extending to and including employment in the capacities to which the persons in that occupation (or a class or description of them to which he belonged at the time of the relevant accident) are in the normal course advanced, and to which, if he had continued to follow that occupation without having suffered the relevant loss of faculty, he would have had at least the normal prospects of advancement; and so long as he is, as a result of the relevant loss of faculty, deprived in whole or in part of those prospects, he is to be treated as incapable of following that occupation.

(5) Regulations may for the purposes of this section provide that a person is not to be treated as capable of following an occupation or employment merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.

(6) Reduced earnings allowance shall be awarded—

- (a) for such period as may be determined at the time of the award; and
- (b) if at the end of that period the beneficiary submits a fresh claim for the allowance, for such further period as may be determined.

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(7) The award may not be for a period longer than the period to be taken into account under paragraph 4 or 4A of Schedule 8 to this Act.

(8) Reduced earnings allowance shall be payable at a rate determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in any employed earner's employments which are suitable in his case and which he is likely to be capable of following as compared with that in the relevant occupation, but in no case at a rate higher than 40 per cent. of the maximum rate of a disablement pension or at a rate such that the aggregate of disablement pension and reduced earnings allowance awarded to the beneficiary exceeds 140 per cent. of the maximum rate of a disablement pension.

(9) In subsection (8) above "the relevant occupation" means—

(a) in relation to a person who is entitled to reduced earnings allowance by virtue of regulations under subsection (2) above, the occupation in which he was engaged when the relevant accident took place; and

(b) in relation to any other person who is entitled to reduced earnings allowance, his regular occupation within the meaning of subsection (1) above.

(10) On any award except the first the probable standard of his remuneration shall be determined in such manner as may be prescribed; and, without prejudice to the generality of this subsection, regulations may provide in prescribed circumstances for the probable standard of remuneration to be determined by reference—

(a) to the standard determined at the time of the last previous award of reduced earnings allowance; and

(b) to scales or indices of earnings in a particular industry or description of industries or any other data relating to such earnings.

(11) A person who—

(a) attains pensionable age after this section comes into operation; and

(b) has retired from regular employment before that day; and

(c) was entitled to reduced earnings allowance on the day immediately before he retired from regular employment, shall be treated as entitled as from the day on which he retires from regular employment to reduced earnings allowance at a rate not higher at any time than that at which the allowance was payable to him immediately before he retired from regular employment."

(2) Section 60 (increase of disablement pension for special hardship) shall cease to have effect.

(3) A person who—

(a) is over pensionable age on the day on which this paragraph comes into operation; and

(b) has retired from regular employment before that day; and

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(c) was entitled on the day immediately before that day to an increase under section 60,

shall be treated as entitled as from the day on which this paragraph comes into operation to reduced earnings allowance at a rate not higher at any time than that at which the increase was payable to him immediately before that day.

(4) Where for any period commencing before 6th April 1987 a person is entitled both to reduced earnings allowance under section 59A and to an additional pension of a long-term benefit or, if the long-term benefit is invalidity pension, to either an invalidity allowance or an additional pension, or both, his reduced earnings allowance shall be reduced in respect of any part of the period falling on or after 6th April 1987 by the amount of any increase in the additional pension or invalidity allowance as the result of an order under Article 64 taking effect on or after that date.

(5) Where for any period commencing on or after 6th April 1987 a person is entitled as mentioned in sub-paragraph (4), his reduced earnings allowance shall be reduced by the amount of any additional pension or invalidity allowance to which he is entitled.

(6) Where a reduction falls to be made under sub-paragraph (4) or (5), the person to whom it falls to be made shall be entitled to reduced earnings allowance only if there is a balance after the reduction and, if there is such a balance, of an amount equal to it.

(7) Where the weekly rate of a benefit is reduced under Article 31 of the Pensions Order, there shall be subtracted from the amount which would otherwise fall to be deducted under sub-paragraph (4) or (5) an amount equal to the reduction under that Article.

(8) In the preceding sub-paragraphs references to an additional pension are references to that pension after any increase under Article 11(3) of the Pensions Order but without any increase under Schedule 1, paragraphs 1 and 2, to that Order.

6. After subsection (2) of section 61 (constant attendance allowance) insert the following subsections—

“(3) The Department may by regulations direct that any provision of section 35 above shall have effect, with or without modifications, in relation to increases of pension under this section.

(4) In subsection (3) above “modifications” includes additions and omissions.”.

7. Section 62 (increase during hospital treatment) shall cease to have effect, except in relation to a period during which a person is receiving medical treatment as an in-patient in a hospital or similar institution and which—

- (a) commenced before the coming into operation of this paragraph; or
- (b) commenced after it but within a period of 28 days from the end of the period during which he last received an increase of benefit under that section in respect of such treatment for the relevant injury or loss of faculty.

8. The following provisions (which all relate to industrial death benefit)—

- (a) sections 67 and 68;
- (b) sections 70 to 75; and

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(c) Schedule 9,
shall cease to have effect.

9.—(1) This paragraph shall have effect in relation to widows who on the day before paragraph 8 above comes into operation are entitled to death benefit under section 67.

(2) A widow who is entitled to a pension at the initial rate specified in Schedule 4, Part V, paragraph 13(a) shall be treated as satisfying the conditions of entitlement to a widow's allowance specified in subsection (1) of section 24 and her entitlement to the allowance under that section shall, subject to the proviso to subsection (2) of that section, continue for so long as she would have been entitled to a pension under section 67 at the initial rate.

(3) A widow who—

(a) is not entitled to a pension at the initial rate but has one or more dependent children; or

(b) is pregnant on the day before paragraph 8 comes into operation,
shall be treated as satisfying the conditions of entitlement to a widowed mother's allowance under section 25 and her entitlement to the allowance shall, subject to the proviso to subsection (3) of that section, continue for so long as she satisfies either of the conditions specified in paragraph (a) or (b) of subsection (1) of that section.

(4) A widow who—

(a) is under 60; and

(b) has no dependent child; and

(c) does not fall to be treated as entitled to a widow's allowance or a widowed mother's allowance,

shall be treated as satisfying the conditions of entitlement to a widow's pension under section 26 and the pension shall be payable for any period during which she satisfies the provisions of subsection (3) of that section.

(5) Subject to sub-paragraph (6), the rate of a widow's pension under sub-paragraph (4) shall be—

(a) in the case of a widow who was entitled to an allowance under section 70 after her husband died, but has ceased to be so entitled, the rate for a widow of the age she was when she so ceased;

(b) in the case of a widow who was not so entitled, the rate for a widow of the age she was when her late husband died,

and for the purposes of this paragraph a woman who was under the age of 40 at the relevant time shall be treated as having been of the age of 40 at that time.

(6) The rate of pension for a widow who is entitled under section 68(2) to a pension at the higher permanent rate specified in Schedule 4, Part V, paragraph 13(b), shall be the rate specified in Article 15 of the Pensions Order and shall be that rate notwithstanding anything in paragraph (3) of that Article.

(7) Regulations may provide that a widow who on the day before paragraph 8 comes into operation is entitled to death benefit under section 67 shall be entitled to a prescribed benefit at a prescribed rate.

(8) In this paragraph "dependent child" means a child in respect of whom

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the widow is entitled to child benefit if one of the conditions specified in section 43(1) is for the time being satisfied with respect to the child and the child is either—

- (a) a son or daughter of the widow and her late husband; or
- (b) a child in respect of whom her late husband was immediately before his death entitled to child benefit; or
- (c) if the widow and her late husband were residing together immediately before his death, a child in respect of whom she was then entitled to child benefit.

10. In any case where—

- (a) an employed earner who is married dies as a result—
 - (i) of a personal injury of a kind mentioned in section 50(1); or
 - (ii) of a disease or injury such as is mentioned in section 76(1);
- (b) the contribution conditions are not wholly satisfied in respect of him;

those conditions shall be taken to be satisfied for the purposes of his widow's entitlement to—

- (i) a widow's allowance or widow's payment;
- (ii) a widowed mother's allowance;
- (iii) a widow's pension; or
- (iv) a Category B retirement pension at the same weekly rate as her widow's pension.

11. Section 69 (widower's death benefit) shall cease to have effect, except in relation to widowers in receipt of death benefit immediately before this paragraph comes into operation.

12. The Department may by regulations provide for the payment of prescribed amounts in prescribed circumstances to persons who immediately before the repeal of sections 71 to 73 were entitled to any benefit by virtue of any of those sections, but in determining the amount which is to be payable in any case or class of cases the Department may take into account—

- (a) the extent to which the weekly rate of industrial death benefit has been modified in that case or class of cases by virtue of section 74;
- (b) the age of the beneficiary and of any person or persons formerly maintained by the deceased; and
- (c) the length of time that entitlement to the benefit would have been likely to continue if those sections had not been repealed.

13. In section 77 (regulations as to industrial diseases), after subsection (3) insert the following subsections—

“(4) The regulations may also provide—

- (a) that in the determination of the extent of an employed earner's disablement resulting from a prescribed disease or injury there may be added to the percentage of that disablement the assessed percentage of any present disablement of his resulting from—
 - (i) any accident after 4th July 1948 arising out of and in the course of his employment, being employed earner's employment;
 - (ii) any other prescribed disease or injury due to the nature of that employment and developed after 4th July 1948,
- and in respect of which a disablement gratuity was not paid to

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him under this Act after a final assessment of his disablement;
and

- (b) that in the determination of the extent of an employed earner's disablement for the purposes of section 57 above there may be added to the percentage of disablement resulting from the relevant accident the assessed percentage of any present disablement of his resulting from any prescribed disease or injury due to the nature of his employment and developed after 4th July 1948 and in respect of which a disablement gratuity was not paid to him under this Act after a final assessment of his disablement.

(5) Where the regulations make provision such as is mentioned in subsection (4) above and also make provision corresponding to subsection (1B) of section 57 above, they may also make provision to the effect that the corresponding provisions shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate."

14. In section 108 (disablement questions)—
- (a) in subsection (1) add at the end the following words but not as part of paragraph (b)—
- "but questions relating to the aggregation of percentages of disablement resulting from different accidents are not disablement questions."; and
- (b) after subsection (4) insert the following subsection—
- “(4A) In the case of a claimant for disablement benefit the adjudication officer may refer to one or more adjudicating medical practitioners for determination any question as to the extent of any present disablement of his resulting from an accident other than the accident which is the basis of the claim.”.
15. For the purposes of section 150 (payments for pre-1948 cases) paragraph 4 shall be deemed not to have been enacted.
16. In Schedule 8 (assessment of extent of disablement)—
- (a) renumber paragraph 4 as sub-paragraph (1) of that paragraph; and
- (b) insert after that sub-paragraph the following sub-paragraph—
- “(2) Where—
- (a) the assessed extent of a claimant's disablement amounts to 13 per cent. or less;
- (b) it seems likely that the assessed extent of a claimant's disablement will be aggregated with the assessed extent of any present disablement of his and the likely aggregate amounts to 13 per cent. or less,
- the period to be taken into account by the assessment of the disablement shall not end earlier than any date by which it seems likely that the extent of the disablement or the aggregate will be at least 1 per cent.”.

Pneumoconiosis, etc., (Workers' Compensation)
(Northern Ireland) Order 1979 (NI 9)

- 17.—(1) In Article 2(2) (interpretation) insert the following definitions before the definition of “death benefit”—

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“the appropriate percentage” means, in the case of any disease, the percentage specified in subsection (1) of section 57 of the Social Security (Northern Ireland) Act 1975 or, if regulations have been made under section 77 of that Act specifying a different percentage in relation to that disease, the percentage specified in the regulations;

“the appropriate period” means, in the case of any disease, the period specified in subsection (4) of the said section 57 or, if regulations have been made under the said section 77 specifying a different period in relation to that disease, the period specified in the regulations;”

(2) At the end of paragraph (3)(a) of Article 3 (payments to persons disabled by pneumoconiosis, etc.) add “or, subject to paragraph (3A), would be payable to him in respect of it but for his disablement amounting to less than the appropriate percentage”.

(3) At the end of paragraph (3)(b) of Article 4 (payments to dependants) there shall be added the words “or, subject to paragraph (3A), would have been so payable to him—

- (i) but for his disablement amounting to less than the appropriate percentage; or
- (ii) but for his not having claimed the benefit; or
- (iii) but for his having died before he had suffered from the disease for the appropriate period”.

(4) After paragraph (3) of Article 3 and of Article 4, insert in each case the following paragraph—

“(3A) No amount is payable under this Article in respect of disablement amounting to less than 1 per cent.”.

Article 50.

SCHEDULE 4

STATUTORY MATERNITY PAY, ETC.

PART I

PROVISIONS SUPPLEMENTARY TO PART VI

Recovery of amounts paid by way of statutory maternity pay

1. Regulations shall make provision—

- (a) entitling, except in prescribed circumstances, any person who has made a payment of statutory maternity pay to recover the amount so paid by making one or more deductions from his contributions payments; and
- (b) for the payment, in prescribed circumstances, by the Department or by the Commissioners of Inland Revenue on behalf of the Department, of sums to persons who are unable so to recover the whole, or any part, of any payments of statutory maternity pay which they have made;
- (c) giving any person who has made a payment of statutory maternity pay a right, except in prescribed circumstances, to an amount, determined in such manner as may be prescribed;
- (d) providing for the recovery, in prescribed circumstances, of the whole or any part of any such amount from contributions payments;
- (e) for the payment, in prescribed circumstances, by the Department or

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by the Commissioners of Inland Revenue on behalf of the Department, of the whole or any part of any such amount.

2. Regulations under paragraph 1 may, in particular provide for any deduction made in accordance with the regulations to be disregarded for prescribed purposes.

3. The power to make regulations conferred by paragraph 5 of Schedule 1 to the principal Act (power to combine collection of contributions with collection of income tax) shall include power to make such provision as the Department considers expedient in consequence of any provision made by or under this Schedule.

4. Provision made in regulations under paragraph 5 of Schedule 1 to the principal Act, by virtue of paragraph 3, may in particular require the inclusion—

(a) in returns, certificates and other documents; or

(b) in any other form of record;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating to statutory maternity pay or deductions or payments made by virtue of paragraph 1 as may be prescribed by those regulations.

5. Where, in accordance with any provision of regulations made under this Schedule, an amount has been deducted from an employer's contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any statutory provision in relation to primary or secondary Class 1 contributions as having been—

(a) paid (on such date as may be determined in accordance with the regulations); and

(b) received by the Department,

towards discharging the employer's liability in respect of such contributions.

*Provision of information by women and their employers
and/or former employers*

6. A woman shall provide the person who is liable to pay her statutory maternity pay—

(a) with evidence as to her pregnancy and the expected date of confinement in such form and at such time as may be prescribed; and

(b) where she commences work after her confinement but within the maternity pay period, with such additional information as may be prescribed.

7. Where a woman asks an employer or former employer of hers to provide her with a written statement, in respect of a period before the request is made, of one or more of the following—

(a) the weeks within that period which he regards as weeks in respect of which he is liable to pay statutory maternity pay to the woman;

(b) the reasons why he does not so regard the other weeks in that period; and

(c) his opinion as to the amount of statutory maternity pay to which the woman is entitled in respect of each of the weeks in respect of which he regards himself as liable to make a payment,

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the employer or former employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

8. Regulations—

- (a) may require employers to maintain such records in connection with statutory maternity pay as may be prescribed;
- (b) may provide for—
 - (i) any woman claiming to be entitled to statutory maternity pay; or
 - (ii) any other person who is a party to proceedings arising under this Order relating to statutory maternity pay,to furnish to the Department, within a prescribed period, any information required for the determination of any question arising in connection therewith; and
- (c) may require persons who have made payments of statutory maternity pay to furnish to the Department such documents and information, at such time, as may be prescribed.

Provision of information by Department

9. Where the Department considers that it is reasonable for information held by the Department to be disclosed to a person liable to make payments of statutory maternity pay for the purpose of enabling that person to determine—

- (a) whether a maternity pay period exists in relation to a woman who is or has been an employee of his; and
 - (b) if it does, the date of its commencement and the weeks in it in respect of which he may be liable to pay statutory maternity pay,
- the Department may disclose the information to that person.

Statutory maternity pay to count as remuneration for purposes of the principal Act

10. For the purposes of section 3 of the principal Act (meaning of “earnings”), any sums paid to, or for the benefit of, a woman in satisfaction (whether in whole or in part) of any entitlement of hers to statutory maternity pay shall be treated as remuneration derived from employed earner’s employment.

Relationship with benefits and other payments etc.

11. Any day which falls within the maternity pay period shall not be treated for the purposes of the principal Act or the Pensions Order as a day of unemployment or of incapacity for work for the purpose of determining whether it forms part of a period of interruption of employment.

12.—(1) Subject to sub-paragraphs (2) and (3), any entitlement to statutory maternity pay shall not affect any right of a woman in relation to remuneration under any contract of service (“contractual remuneration”).

(2) Subject to sub-paragraph (3)—

- (a) any contractual remuneration paid to a woman by an employer of hers in respect of a week in the maternity pay period shall go towards discharging any liability of that employer to pay statutory maternity pay to her in respect of that week; and
- (b) any statutory maternity pay paid by an employer to a woman who is an employee of his in respect of a week in the maternity pay period

shall go towards discharging any liability of that employer to pay contractual remuneration to her in respect of that week.

(3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of sub-paragraphs (1) and (2).

PART II

AMENDMENTS OF PRINCIPAL ACT

13. For sections 22 and 23 substitute the following section—

“State maternity allowance. 22.—(1) A woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 4, if—

- (a) she satisfies the condition specified in Article 47(2)(c) of the Social Security (Northern Ireland) Order 1986; and
- (b) she has been engaged in employment as an employed or self-employed earner for at least 26 weeks in the 52 weeks immediately preceding the 14th week before the expected week of confinement; and
- (c) she satisfies the contribution condition for a maternity allowance specified in Schedule 3, Part I, paragraph 3; and
- (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.

(2) Subject to the following provisions of this section, a maternity allowance shall be payable for the period (“the maternity allowance period”) which, if she were entitled to statutory maternity pay, would be the maternity pay period under Article 48 of the Social Security (Northern Ireland) Order 1986.

(3) Regulations may provide—

- (a) for disqualifying a woman for receiving a maternity allowance if—
 - (i) during the maternity allowance period she does any work in employment as an employed or self-employed earner or fails without good cause to observe any prescribed rules of behaviour; or
 - (ii) at any time before she is confined she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations;
- (b) that this section and Schedule 3, Part I, paragraph 3 shall have effect subject to prescribed modifications in relation to cases in which a woman has been confined and—
 - (i) has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed); or
 - (ii) has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but she was confined more than 11 weeks before the expected week of confinement.

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(4) Any day which falls within the maternity allowance period shall be treated for the purposes of this Part of this Act as a day of incapacity for work.

(5) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance—

(a) Sunday or such other day in each week as may be prescribed shall be disregarded; and

(b) the amount payable by way of that allowance for any other day shall be taken as 1/6th of the weekly rate of the allowance.

(6) In this section “confinement” and “confined” are to be construed in accordance with Article 51 of the Social Security (Northern Ireland) Order 1986.

(7) The fact that the mother of a child is being paid maternity allowance shall not be taken into consideration by any court in deciding whether to order payment of expenses incidental to the birth of the child.”.

14. In Part I of Schedule 3, for paragraph 3 substitute the following paragraph—

“3. The contribution condition for a maternity allowance is—

(a) that the claimant must in respect of at least 26 weeks in the 52 weeks immediately preceding the 14th week before the expected week of confinement have actually paid contributions of a relevant class; and

(b) in the case of Class 1 contributions, that they were not secondary contributions and were not paid at the reduced rate.”.

PART III

**ABOLITION OF MATERNITY PAY AND WINDING-UP OF
NORTHERN IRELAND MATERNITY PAY FUND**

1976 NI 28 15. Articles 16 to 19 and 21 to 27 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 (which relate to maternity pay) shall cease to have effect.

16. A woman who is entitled to maternity pay on the coming into operation of paragraph 15 shall continue to be so entitled notwithstanding that paragraph; but a woman who continues to be entitled to maternity pay by virtue of this paragraph shall not be entitled to statutory maternity pay in respect of any week as respects which she is entitled to maternity pay.

17.—(1) The assets and liabilities of the Northern Ireland Maternity Pay Fund (including, in particular, liabilities of the Department of Economic Development in respect of sums advanced under Article 21 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 or claims under Article 22 or 23 of that Order) immediately before the relevant date shall become assets and liabilities of the Northern Ireland National Insurance Fund; and on that date the Northern Ireland Maternity Pay Fund shall cease to exist.

(2) Not later than such date as the Department of Finance and Personnel may direct the Department of Economic Development shall prepare an account in such form as the Department of Finance and Personnel may direct

showing the state of the Northern Ireland Maternity Pay Fund on the relevant date.

(3) The Department of Economic Development shall send to the Comptroller and Auditor General a copy of the account prepared under subparagraph (2); and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before the Assembly.

(4) In this paragraph "the relevant date" means such date in the period of 12 months ending on 5th April 1988 as the Department of Economic Development may, with the consent of the Department of Finance and Personnel, determine.

SCHEDULE 5

Article 53.

ADJUDICATION

PART I

AMENDMENTS

The principal Act

1. Section 95 (other questions for Department) shall cease to have effect.
2. In section 96 (review of certain decisions of Department), for subsection (1) substitute the following subsection—

“(1) Subject to subsection (2) below, the Department may review any decision given by it on any question within section 93(1) above if—

 - (a) new facts have been brought to its notice; or
 - (b) it is satisfied that the decision—
 - (i) was given in ignorance of some material fact;
 - (ii) was based on a mistake as to some material fact; or
 - (iii) was erroneous in point of law.”.
3. In section 98 (claims and questions to be submitted to adjudication officer), for subsection (2) substitute the following subsections—

“(2) Subsection (1) above does not apply to any question which falls to be determined otherwise than by an adjudication officer.

(2A) If—

 - (a) a person submits a question relating to the age, marriage or death of any person; and
 - (b) it appears to the adjudication officer that the question may arise if the person who has submitted it to him submits a claim for benefit,

the adjudication officer may determine the question.”.
4. In section 99 (decision of adjudication officer), for subsection (2) substitute the following subsection—

“(2) Subject to section 103 below (reference of special questions), the adjudication officer may decide a claim or question himself or refer it to a social security appeal tribunal.”.
5. In section 100 (appeal to social security appeal tribunal)—
 - (a) in subsection (1), omit “adversely to the claimant”;

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- (b) in subsection (2), for the words from “notified” to the end substitute “given any such notification of a decision and of his right of appeal under this section as may be prescribed.”;
- (c) for the words from the beginning of subsection (3) to the end of paragraph (b) substitute “Where in connection with the decision of the adjudication officer there has arisen any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer”;
- (d) for subsection (4) substitute the following subsection—
 - “(4) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.”;
 - and
- (e) for subsection (6) substitute the following subsection—
 - “(6) Where an adjudication officer has determined that any amount is recoverable under or by virtue of Article 28 or 54 of the Social Security (Northern Ireland) Order 1986 (overpayments) any person from whom he has determined that it is recoverable shall have the same right of appeal to a social security appeal tribunal as a claimant.”.

6.—(1) At the end of subsection (1) of section 101 (appeal from tribunal to Commissioner) add “on the ground that the decision of the tribunal was erroneous in point of law.”.

(2) For paragraph (d) of subsection (2) of that section substitute the following paragraph—

“(d) a person from whom it is determined that any amount is recoverable under or by virtue of Article 28 or 54 of the Social Security (Northern Ireland) Order 1986.”.

(3) For subsection (5) of that section substitute the following subsections—

“(5) Where the Commissioner holds that the decision was erroneous in point of law—

(a) he shall have power—

(i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or

(ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and

(b) in any other case he shall refer the case to a tribunal with directions for its determination.

(5A) No appeal lies under this section without the leave—

(a) of the person who was the chairman of the tribunal when the decision was given or, in a case prescribed by regulations, the leave of some other chairman of a social security appeal tribunal; or

(b) subject to and in accordance with regulations, of a Commissioner.

(5B) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.”.

7. In section 102 (question first arising on appeal) for subsection (2) substitute the following subsection—

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“(2) Subsection (1) above does not apply to any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer.”.

8. For section 103 substitute the following section—

“Reference 103.—(1) Subject to subsection (2) below—

of special questions.

(a) if on consideration of any claim or question an adjudication officer is of opinion that there arises any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, he shall refer the question for such determination; and

(b) if on consideration of any claim or question a social security appeal tribunal or a Commissioner is of opinion that any such question arises, the tribunal or Commissioner shall direct it to be referred by an adjudication officer for such determination.

(2) The person or tribunal making the reference shall then deal with any other question as if the referred question had not arisen.

(3) The adjudication officer, tribunal or Commissioner may—

(a) postpone the reference of, or dealing with, any question until other questions have been determined;

(b) in cases where the determination of any question disposes of a claim or any part of it make an award or decide that an award cannot be made, as to the claim or that part of it, without referring or dealing with, or before the determination of, any other question.”.

9. In section 104 (review of decisions of adjudication officers, tribunals or Commissioner)—

(a) for subsection (1) substitute the following subsection—

“(1) Any decision under this Act of an adjudication officer, a social security appeal tribunal or a Commissioner may be reviewed at any time by an adjudication officer, or, on a reference by an adjudication officer, by a social security appeal tribunal, if—

(a) the officer or tribunal is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or

(b) there has been any relevant change of circumstances since the decision was given; or

(c) the decision was based on a decision of a question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer or tribunal is satisfied as mentioned in that paragraph by fresh evidence.”;

(b) in subsection (1A) the words “in prescribed circumstances” shall cease to have effect;

(c) after subsection (3) insert the following subsection—

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“(3A) Regulations may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application under subsection (2) has been made.”; and

(d) after subsection (4) add the following subsection—

“(5) Regulations—

(a) may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (1)(b) above; and

(b) may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before the review.”.

10.—(1) In section 106(1) (review of decision of Attendance Allowance Board), in paragraph (b) before “within” insert “on an application made”.

(2) After that paragraph insert the following paragraph—

“(bb) without an application review such a determination on any ground within the prescribed period;”.

11. In section 107(6) (declaration that accident is an industrial accident)—

(a) after “accident was” insert “or was not”; and

(b) “by fresh evidence”, paragraph (b) and the word “but” immediately preceding that paragraph shall cease to have effect.

12. In section 109(3) (medical appeals and references) after “by a medical appeal tribunal,” insert “or, if the adjudication officer is of the opinion that any such decision ought to be so considered,”.

13. In section 110 (review of medical decisions)—

(a) in subsection (1), “by fresh evidence” shall cease to have effect; and

(b) after that subsection insert the following subsections—

“(1A) Any decision under this Part of this Act of an adjudicating medical practitioner may be reviewed at any time by such a practitioner if he is satisfied that the decision was erroneous in point of law.

(1B) Regulations may provide that a decision may not be reviewed under subsection (1) above unless the adjudicating medical practitioner is satisfied as mentioned in that subsection by fresh evidence.”.

14. In section 114 (regulations as to determination of questions)—

(a) after subsection (2) insert the following subsections—

“(2A) Regulations under subsection (1) above may provide for the review by the Department of decisions on questions determined by it.

(2B) The Lord Chancellor may by regulations provide—

(a) for officers authorised by him to determine any question which is determinable by a Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;

(b) for the procedure to be followed by any such officer in determining any such question;

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(c) for the manner in which determinations of such questions by such officers may be called in question.

(2C) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Commissioner is not a determination of the appeal, application or reference for the purposes of subsection (2B) above.”; and

(b) subsections (3) and (4) shall cease to have effect.

15. In paragraph 2(2) of Schedule 12 (appointment of members of medical appeal tribunals) for “Department” substitute “President” and for “it” substitute “him”.

16. In Schedule 13 (provision which may be made by procedure regulations)—

(a) after paragraph 1 insert the following paragraph—

“1A. Provision as to the striking out of proceedings for want of prosecution.”;

(b) in paragraph 10, for the words from “the determination” to the end substitute “a determination.”.

17. In Schedule 17 (glossary of expressions), for the definition of “Regulations” there shall be substituted the following definition—

““Regulations”. In relation to 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) and to regulations under section 114(2B) above regulations made by the Lord Chancellor under this Act and in relation to other regulations, regulations made by the Department under this Act.”.

The Pensions Order

18. In Article 62(2) (review of determinations by Occupational Pensions Board), at the end of sub-paragraph (a) insert “or was erroneous in point of law”.

PART II

QUESTIONS FOR DETERMINATION BY THE DEPARTMENT

The questions referred to in Article 53(2) are—

(a) any question arising in connection with—

(i) minimum contributions;

(ii) any state scheme premium under Part II; or

(iii) payments under Article 9,

other than a question which is required under or by virtue of this Order or the Pensions Order to be determined by the Occupational Pensions Board;

(b) any question arising under any provision of Part II of the Social Security (Northern Ireland) Order 1982, or of regulations under that Part, as to—

(i) whether a person is, or was, an employee or employer of another;

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- (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under Article 11 of that Order;
 - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
 - (iv) the amount that falls to be so deducted or paid; or
 - (v) whether two or more employers or two or more contracts of service are, by virtue of regulations made under Article 28(5) of that Order, to be treated as one;
- (c) any question arising under Part VI (including Schedule 4) or regulations under it as to—
- (i) whether a person is, or was, an employee or employer of another;
 - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under Part I of Schedule 4;
 - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
 - (iv) the amount that falls to be so deducted or paid;
 - (v) whether two or more employers or two or more contracts of service are, by virtue of regulations made under Article 51(2), to be treated as one,
- and any question arising under regulations made by virtue of subparagraph (c), (d) or (f) of Article 47(8).

Article 67.

SCHEDULE 6

CHRISTMAS BONUS FOR PENSIONERS

Interpretation

- 1.—(1) In this Schedule “qualifying benefit” means—
- (a) any of the following benefits under the principal Act—
 - (i) a retirement pension;
 - (ii) an invalidity pension;
 - (iii) a widowed mother’s allowance or widow’s pension;
 - (iv) a severe disablement allowance;
 - (v) an invalid care allowance;
 - (vi) an industrial death benefit by way of widow’s or widower’s pension;
 - (b) an attendance allowance;
 - (c) an unemployability supplement or allowance;
 - (d) a war disablement pension;
 - (e) a war widow’s pension;
 - (f) income support.
- (2) In this Schedule—
- “attendance allowance” means—
- (a) an attendance allowance under section 35 of the principal Act;

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- (b) an increase of disablement pension under section 61 or 63 of that Act (increases in respect of the need for constant attendance);
- (c) a payment under regulations made in exercise of the power in section 150(3)(b) of that Act (constant attendance allowance and an increase for exceptionally severe disablement for certain pre-1948 cases);
- (d) an increase of allowance under Article 8 of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983 (constant attendance allowance for certain persons to whom that Scheme applies) or under the corresponding provision of any Scheme which may replace that Scheme;
- (e) an allowance in respect of constant attendance on account of disablement for which a person is in receipt of war disablement pension, including an allowance in respect of exceptionally severe disablement;

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“married couple” and “unmarried couple” are to be construed in accordance with Part III and any regulations made under it;

“pensionable age” means—

- (a) in the case of a man, the age of 65;
- (b) in the case of a woman, the age of 60;

“retirement pension” includes graduated retirement benefit, if paid periodically;

“unemployability supplement or allowance” means—

- (a) an unemployability supplement payable under section 58 of the principal Act by virtue of paragraph 4 of Schedule 3; or
- (b) any corresponding allowance payable—
 - (i) by virtue of section 7(3)(a) of the Industrial Injuries and Diseases (Old Cases) Act 1975;
 - (ii) by way of supplement to retired pay or pension exempt from income tax under section 365(1) of the Income and Corporation Taxes Act 1970;
 - (iii) under the Personal Injuries (Emergency Provisions) Act 1939; or
 - (iv) by way of supplement to retired pay or pension under the Polish Resettlement Act 1947;

1975 c. 16

1970 c. 10

1939 c. 82

1947 c. 19

and each of the following expressions, namely “attendance allowance”, “unemployability supplement or allowance”, “war disablement pension” and “war widow’s pension”, includes any payment which the Department accepts as being analogous to it.

(3) In this Schedule “the relevant week”, in relation to any year, means the week beginning with the first Monday in December or such other week as may be specified in an order made by the Department.

Entitlement

2.—(1) Any person who in any year—

- (a) is present or ordinarily resident in the United Kingdom or any other member state at any time during the relevant week; and
- (b) is entitled to a payment of a qualifying benefit in respect of a period

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which includes a day in that week or is to be treated as entitled to a payment of a qualifying benefit in respect of such a period, shall, subject to the following provisions of this Schedule, be entitled to payment under this sub-paragraph in respect of that year.

(2) Subject to the following provisions of this Schedule, any person who is a member of a married or unmarried couple and is entitled to a payment under sub-paragraph (1) in respect of a year shall also be entitled to payment under this sub-paragraph in respect of that year if—

- (a) both members of the couple have attained pensionable age not later than the end of the relevant week; and
- (b) the other member of the couple satisfies the condition mentioned in sub-paragraph (1)(a); and
- (c) either—
 - (i) he is entitled or treated as entitled, in respect of the other member of the couple to an increase in the payment of the qualifying benefit; or
 - (ii) the only qualifying benefit to which he is entitled is income support.

(3) A payment under sub-paragraph (1) or (2)—

- (a) is to be made by the Department; and
- (b) is to be of £10 or such larger sum as the Department may by order specify.

(4) Where the only qualifying benefit to which a person is entitled is income support, he shall not be entitled to a payment under sub-paragraph (1) unless he has attained pensionable age not later than the end of the relevant week.

(5) Only one sum shall be payable in respect of any person.

3.—(1) For the purposes of paragraph 2 the Channel Islands, the Isle of Man and Gibraltar shall be treated as though they were part of the United Kingdom.

(2) A person shall be treated for the purposes of paragraph 2(1)(b) as entitled to a payment of a qualifying benefit if he would be so entitled—

- (a) in the case of a qualifying benefit other than income support—
 - (i) but for the fact that he or, if he is a member of a married or unmarried couple, the other member is entitled to receive some other payment out of public funds;
 - (ii) but for the operation of section 30(1) of the principal Act;
 - (iii) but for the fact that he has not made a claim for the payment;
- (b) in the case of income support, but for the fact that his income or, if he is a member of a married or unmarried couple, the income of the other member of the couple was exceptionally of an amount which resulted in his having ceased to be entitled to income support.

(3) A person shall be treated for the purposes of paragraph 2(2)(c)(i) as entitled in respect of the other member of the couple to an increase in a payment of qualifying benefit if he would be so entitled—

- (a) but for the fact that he or the other member is entitled to receive some other payment out of public funds;
- (b) but for the operation of any provision of section 30(1), 45(2) or (2A)

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or 66(4) of the principal Act or any regulations made under section 66(3) of that Act whereby entitlement to benefit is affected by the amount of a person's earnings in a given period; or

- (c) but for such terms as are mentioned in sub-paragraph (2)(a)(iii); or
- (d) but for the fact that he has not made a claim for the increase.

(4) For the purposes of paragraph 2 a person shall be deemed not to be entitled to a payment of a war disablement pension unless not later than the end of the relevant week—

- (a) he has attained the age of 70 in the case of a man or 65 in the case of a woman; or
- (b) he is treated under section 27(3) of the principal Act as having retired from regular employment.

(5) A sum payable under paragraph 2 shall not be treated as benefit for the purposes of any enactment or instrument under which entitlement to the relevant qualifying benefit arises or is to be treated as arising.

(6) A payment and the right to receive a payment—

- (a) under paragraph 2 or any enactment corresponding to it in Great Britain; or
- (b) under regulations relating to widows which are made by the Secretary of State under any enactment relating to police and which contain a statement that the regulations provide for payments corresponding to payments under that paragraph,

shall be disregarded for the purposes of any enactment or instrument under which regard is had to a person's means.

Administration of payments

4.—(1) A determination by the competent authority that a person is entitled or not entitled to payment of a qualifying benefit in respect of a period which includes a day in the relevant week shall be conclusive for the purposes of paragraph 2; and in this sub-paragraph "competent authority" means, in relation to a payment of any description of qualifying benefit, an authority who ordinarily determines whether a person is entitled to such a payment.

(2) Any question arising under this Schedule other than one determined or falling to be determined under sub-paragraph (1) shall be determined by the Department whose decision shall except as provided by the following sub-paragraph be final.

(3) The Department may reverse a decision under sub-paragraph (2) on new facts being brought to its notice or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact.

SCHEDULE 7

Article 74.

SUPPLEMENTARY BENEFIT, ETC.

Interpretation

1. In this Schedule—

"the former National Insurance Acts" means the National Insurance Act (Northern Ireland) 1946 and the National Insurance Act (Northern Ireland) 1966; and

1946 c. 23 (N.I.)
1966 c. 6 (N.I.)

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1946 c. 21 (N.I.)
1966 c. 9 (N.I.)

“the former Industrial Injuries Acts” means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 and the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.

Prevention of duplication of payments

2. Article 28 shall have effect in relation to supplementary benefit as it has effect in relation to income support.

Claims and Payments

3.—(1) Article 52 shall have effect in relation to the benefits specified in sub-paragraph (2) as it has effect in relation to the benefits to which it applies by virtue of paragraph (2) of that Article.

(2) The benefits mentioned in sub-paragraph (1) are benefits under—

- 1948 c. 13 (N.I.)
1966 c. 28 (N.I.)
1977 NI 27
1971 c. 8 (N.I.)
- (a) the former National Insurance Acts;
 - (b) the former Industrial Injuries Acts;
 - (c) the National Assistance Act (Northern Ireland) 1948;
 - (d) the Supplementary Benefits &c. Act (Northern Ireland) 1966;
 - (e) the Supplementary Benefits (Northern Ireland) Order 1977;
 - (f) the Family Income Supplements Act (Northern Ireland) 1971.

Adjudication

4.—(1) Article 53(3) shall have effect for the purposes of the benefits specified in paragraph 3(2) as it has effect for the purposes of benefit under the principal Act.

(2) Procedure regulations made under section 115 of the principal Act by virtue of sub-paragraph (1) may make different provision in relation to each of the benefits specified in paragraph 3(2).

Overpayments

5.—(1) Article 54 shall have effect in relation to the benefits specified in paragraph 3(2) as it has effect in relation to the benefits to which it applies by virtue of paragraph (10) of that Article.

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(2) The reference to housing benefit in Article 30(4) includes a reference to housing benefit under the Housing Benefits (Northern Ireland) Order 1983.

Legal proceedings

6. Article 57 shall have effect as if the benefit Acts included—

- 1966 c. 28 (N.I.)
1977 NI 27
- (a) the National Assistance Act (Northern Ireland) 1948;
 - (b) the Supplementary Benefits &c. Act (Northern Ireland) 1966;
 - (c) the Supplementary Benefits (Northern Ireland) Order 1977;
 - (d) the Family Income Supplements Act (Northern Ireland) 1971.

Inspection

7. Article 59 shall have effect as if the benefit Acts included the Order and the Act mentioned in paragraph 6(c) and (d).

SCHEDULE 8

Article 76.

EARNINGS FACTORS

The principal Act

1.—(1) In subsection (2) of section 13 (contribution conditions and the earnings factor) for the words from “from” to “above” substitute “in respect of each tax year from those of his earnings upon which primary Class 1 contributions have been paid or treated as paid and from Class 2 and Class 3 contributions”.

(2) In subsection (3) of that section, for the words from “primary” to the end substitute “earnings upon which primary Class 1 contributions are paid at the reduced rate”.

(3) In subsection (4), for “contributions of any class” substitute “earnings or Class 2 or Class 3 contributions”.

(4) In subsection (5)—

(a) for “contributions”, in the first place where it occurs, substitute “earnings or Class 2 or Class 3 contributions”;

(b) omit paragraph (a); and

(c) for the words from “shall be derived” to the end of the subsection substitute “may be derived—

(i) from earnings upon which primary Class 1 contributions have been paid or treated as paid;

(ii) from earnings which have been credited;

(iii) from contributions of different classes paid or credited in the same tax year;

(iv) by any combination of the methods mentioned in sub-paragraphs (i) to (iii) above.”.

(5) After subsection (5A) insert the following subsection—

“(5B) Regulations may provide for requiring persons to maintain, in such form and manner as may be prescribed, records of such earnings paid by them as are relevant for the purpose of calculating earnings factors, and to retain such records for so long as may be prescribed.”.

(6) In subsection (6)(c)—

(a) for “person’s contributions of any class or classes” substitute “person”;

(b) for “those contributions” substitute “his earnings upon which primary Class 1 contributions have been paid or treated as paid and from his Class 2 and Class 3 contributions”.

2.—(1) For sub-paragraph (2)(b) of paragraph 1 (unemployment and sickness benefit) of Schedule 3 (contribution conditions) substitute the following head—

“(b) the earnings factor derived—

(i) in the case of unemployment benefit, from earnings upon which primary Class 1 contributions have been paid or treated as paid; and

(ii) in the case of sickness benefit, from such earnings or from Class 2 contributions,

must be not less than that year’s lower earnings limit multiplied by 25.”.

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(2) In sub-paragraph (3)(a) of that paragraph, after “class” insert “or been credited with earnings”.

(3) For sub-paragraph (3)(b) substitute the following head—

“(b) the earnings factor derived—

(i) in the case of unemployment benefit, from earnings upon which primary Class 1 contributions have been paid or treated as paid or from earnings credited; and

(ii) in the case of sickness benefit, from such earnings or from Class 2 contributions,

must be not less than that year’s lower earnings limit multiplied by 50.”.

(4) In sub-paragraph (1)(b) of paragraph 4 of that Schedule, for “those contributions” substitute “earnings upon which primary Class 1 contributions have been paid or treated as paid and from Class 2 and Class 3 contributions”.

(5) In sub-paragraph (2)(b) of paragraph 5 of that Schedule (widowed mother’s allowance, widow’s pension and retirement pensions) for “those contributions” there shall be substituted “earnings upon which such of those contributions as are primary Class 1 contributions were paid or treated as paid and any Class 2 or Class 3 contributions”.

(6) For sub-paragraph (3)(b) of that paragraph substitute the following head—

“(b) in the case of each of those years, the earnings factor derived from—

(i) any earnings upon which such of those contributions as are primary Class 1 contributions were paid or treated as paid or earnings credited; and

(ii) any Class 2 or Class 3 contributions for the year,

must be not less than the qualifying earnings factor for the year.”.

(7) In paragraph 8(3) of that Schedule (satisfaction of certain contribution conditions in early years of contribution) for “his contributions of a relevant class” substitute “the aggregate of his earnings upon which primary Class 1 contributions were paid or treated as paid and from Class 2 contributions”.

The Pensions Order

3. In paragraph (4) of Article 5 (married women and widows), for the words from “contributions” to “rate” substitute “earnings upon which primary Class 1 contributions are paid at a reduced rate by virtue of regulations under paragraph (2) or from Class 2 contributions paid at a reduced rate by virtue of such regulations”.

4. In paragraph (1) of Article 7 (voluntary contributions), after “from” insert “earnings upon which primary Class 1 contributions have been paid or treated as paid or from Class 2”.

5.—(1) In Article 8 (rate of Category A retirement pension)—

(a) in paragraph (5), for “contributions actually paid by him in respect of that year” substitute “earnings upon which primary Class 1 contributions were paid or treated as paid in respect of that year and earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of it”; and

(b) omit paragraph (5A).

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6. In paragraph (2) of Article 37 (earner's guaranteed minimum) for "contributions paid in respect of such earnings as are mentioned in paragraph (1)" substitute "earnings such as are mentioned in paragraph (1) upon which primary Class 1 contributions have been paid or treated as paid".

7. Article 45(1A) and Article 48(2A) shall not apply to any period after the end of the tax year 1986-87.

8. In paragraph (3)(b) of Article 47 (premium where guaranteed minimum pension excluded from full revaluation) for "contributions", in the first place where it occurs, substitute "earnings upon which primary Class 1 contributions have been paid or treated as paid".

*The Social Security (Miscellaneous Provisions)
(Northern Ireland) Order 1977 (NI 11)*

9. In paragraph (1)(b) of Article 17 (calculation of guaranteed minimum pensions preserved under approved arrangements) after "contributions", in the first place where it occurs, insert "or earnings".

SCHEDULE 9

Article 83(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

PENSIONS

The principal Act

1. In paragraph 6(1)(h) of Schedule 1 (regulations about return of contributions) after "of", in the first place where it occurs, insert "the whole or any prescribed part of any".

The Pensions Order

2. In Article 2(2) insert the following definitions at the appropriate places—

"“appropriate scheme” shall be construed in accordance with Part II of the Social Security (Northern Ireland) Order 1986;” and

"“personal pension scheme” has the meaning assigned to it by Article 2(2) of the Social Security (Northern Ireland) Order 1986;”.

3. In Article 28 (contracting-out)—

(a) in paragraph (1), for "the requisite benefits" substitute "a guaranteed minimum pension"; and

(b) in paragraph (2), for the words from the beginning to "such pension" substitute "“Guaranteed minimum pension” means any pension which is provided by an occupational pension scheme in accordance with the requirements of Articles 35 and 38”.

4. In Article 29(4) (contracted-out rates of Class 1 contributions) for the words from the beginning to "that employment" substitute "Where—

(a) an earner has ceased to be employed in an employment; and

(b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased,

that employment”.

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5. In Article 31 (contracted-out rates of benefit)—
- (a) in paragraph (1)(a), for “or a widow’s pension” substitute “, a widow’s pension or a widower’s invalidity pension under Article 18”;
 - (b) in paragraph (2)—
 - (i) after “this Article” insert “and sections 16(2B), 28(7A) and 59(1A) of the principal Act”; and
 - (ii) at the end add “or if as a result of a transfer payment or transfer under regulations made by virtue of Article 40 he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer is made and has not as a result of the transfer payment or transfer become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer is made”.
6. In Article 32(1)(a) (contracted-out employment) for “the requisite benefits of” substitute “a guaranteed minimum pension provided by”.
7. In Article 34 (contracted-out schemes)—
- (a) in paragraph (2)—
 - (i) for “the requisite benefits” in sub-paragraph (a); and
 - (ii) for “requisite benefits” in sub-paragraph (b), substitute “guaranteed minimum pensions”;
 - (b) in paragraph (4) the words “relating to the scheme or its management” shall cease to have effect.
8. In Article 35 (requirements for contracting-out) after paragraph (1) insert the following paragraph—
- “(1A) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of Article 5, subject to the provisions of this Part, for a scheme to be contracted-out in relation to her employment it must—
- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age; and
 - (b) satisfy such other conditions as may be prescribed.”.
9. In Article 40 (transfer of accrued rights), for paragraph (1) substitute the following paragraph—
- “(1) Regulations may prescribe circumstances in which and conditions subject to which—
- (a) there may be made by one occupational pension scheme to another or by an occupational pension scheme to a personal pension scheme a transfer of or a transfer payment in respect of—
 - (i) an earner’s accrued rights to guaranteed minimum pensions under a contracted-out scheme;
 - (ii) an earner’s accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
 - (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them;
 - (b) there may be made to an occupational pension scheme or a personal pension scheme a transfer of or a transfer payment in

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respect of an earner's accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of Article 53C."

10. Articles 43(4) and 50(3) and (7) (powers of Occupational Pensions Board which are no longer required) shall cease to have effect.

11. In Article 43A(4) (protection of earner's pensions) for "5" substitute "2".

12. In Article 44(1)(b) (premium on termination of contracted-out employment) for "five" substitute "two".

13. In Article 45(2A) (linked qualifying service)—

(a) for sub-paragraph (a) substitute the following sub-paragraph—

"(a) under the rules of a scheme applying to him in the earlier period of service—

(i) there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; or

(ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service;" and

(b) in sub-paragraph (b), for "that transfer" substitute "the transfer of his accrued rights to the second scheme".

14.—(1) In paragraph (1) of Article 46 (premium on termination of contracted-out scheme) after "is" insert "or has been" and after "for the event of" insert ", or in connection with,".

(2) The following paragraphs shall be inserted after paragraph (1B) of that Article (arrangements for scheme's ceasing to be contracted-out)—

"(1C) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—

(a) have withdrawn their approval of previously approved arrangements relating to it; or

(b) have declined to approve arrangements relating to it,

the Board may issue a certificate to that effect.

(1D) A certificate issued under paragraph (1C)(a) or (b) shall be cancelled by the Board if they subsequently approve the arrangements."

(3) In paragraph (2)(a) of that Article, after "under", in the second place where it occurs, insert "Article 53C of or".

(4) In paragraph (5) of that Article, for "The amount" substitute "Subject to paragraph (5A), the amount".

(5) The following paragraphs shall be inserted after that paragraph—

"(5A) Where in calculating the costs referred to in paragraph (5) the Department cannot readily ascertain the amount of any earnings in a tax week, the Department may make the calculation as if the amount of those earnings were equal to the upper earnings limit for that tax week, and may certify the costs accordingly.

(5B) Where—

(a) the Department subsequently ascertains the amount of those earnings; and

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(b) it appears to the Department that the amount of the premium would have been less if the Department had not made the calculation on the basis described in paragraph (5A),

the Department shall refund to the prescribed person the amount by which it would have been less.”.

15. After Article 50(2) (duty to supervise schemes which have ceased to be contracted-out) insert the following paragraph—

“(2A) Where in the case of any scheme the Board have issued a certificate under paragraph (1C) of Article 46 which has not been cancelled under paragraph (1D) of that Article, or a certificate under paragraph (2) of Article 46ZA which has not been cancelled under paragraph (3) of that Article, the Board shall not be under the duty which would otherwise be imposed on them by paragraph (2) in relation to that scheme.”.

16. In Article 51 (alteration of rules of contracted-out schemes)—

(a) in paragraph (1)—

(i) after “Board” insert “unless it is an alteration to which this paragraph does not apply”; and

(ii) for “such alteration” substitute “alteration to which this paragraph applies”; and

(b) after that paragraph insert the following paragraph—

“(1A) Paragraph (1) does not apply—

(a) to an alteration consequential on a provision of the Health and Social Security (Northern Ireland) Order 1984, the Social Security (Northern Ireland) Order 1985 or the Social Security (Northern Ireland) Order 1986; or

(b) to an alteration of a prescribed description.”.

17.—(1) Article 53C (cases where scheme’s liability is discharged) shall have effect and shall be deemed always to have had effect as if the following paragraphs were substituted for paragraphs (1) to (3)—

“(1) A transaction to which this Article applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person either the requisite benefits or short service benefit or any alternative to short service benefit—

(a) if it is carried out not earlier than the time when that person’s pensionable service terminates; and

(b) if and to the extent that it results in—

(i) the requisite benefits; or

(ii) short service benefit or an alternative to short service benefit, for or in respect of that person being appropriately secured; and

(c) in a case where the transaction takes place on or after 1st January 1986, if and to the extent that the requirements set out in any one of sub-paragraphs (a), (b) and (c) of paragraph (5) are satisfied.

(2) This Article applies to the following transactions—

(a) the taking out or the transfer of the benefit of a policy of insurance or a number of such policies;

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(b) the entry into or the transfer of the benefit of an annuity contract or a number of such contracts.”.

(2) Paragraph (5) of that Article shall have effect and shall be deemed always to have had effect as if “(1)” were substituted for “(2)(b)”.

(3) In relation to transactions which take place after the commencement of Article 10, Article 53C(1) of the Pensions Order shall have effect with the substitution of the words “guaranteed minimum pensions” for the words “the requisite benefits” in both places where they occur.

18.—(1) Paragraph (1) of Article 53D (supplementary provisions) shall have effect and shall be deemed always to have had effect—

(a) as if the following sub-paragraph were substituted for sub-paragraph (b)—

“(b) either—

(i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in Article 53C(1); or

(ii) it is carried out on or after that date without any of the requirements specified in Article 53C(5)(a) to (c) being satisfied in relation to it and the scheme has been wound up;”;
and

(b) as if for the words from “entitled” to “which” there were substituted the words “only entitled to such part (if any) of his or her guaranteed minimum pension as”.

(2) In that paragraph after “purposes of” insert “sections 16(2B), 28(7A) and 59(1A) of the principal Act and”.

19. In Article 60 (modification of occupational pension scheme by order of Occupational Pensions Board) insert the following paragraph after paragraph (1)—

“(1A) The Board shall also have power on such an application to make an order—

(a) authorising the modification of the scheme with a view to achieving any one or more of such other purposes as may be prescribed;
or

(b) modifying the scheme with a view to achieving any one or more of those purposes.”.

20. In Article 62(1)(a) (review of determinations by Board) after “contracting-out certificate” insert “or an appropriate scheme certificate”.

21. In Article 65 (rule against perpetuities)—

(a) in paragraph (1), for “an occupational” substitute “a personal or occupational”;

(b) in paragraph (2), for “under Part IV” substitute “or an appropriate scheme under Part II of the Social Security (Northern Ireland) Order 1986”; and

(c) in paragraph (5) for “which ceases to be contracted-out, or” substitute “which ceases—

(a) if it is an occupational pension scheme, to be contracted-out; or

(b) if it is a personal pension scheme, to be an appropriate scheme,
or”.

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22. Articles 66 (legal restrictions of doubtful application), 67 (friendly societies) and 68 (fees for official services to schemes) shall have effect in relation to personal pension schemes as they have effect in relation to occupational pension schemes.

23. At the end of paragraph 5(1) of Part 1 of Schedule 1A (revaluation of pensions) add "and which is not an average salary benefit".

24. In Part II of Schedule 1A (transfer values)—

(a) after paragraph 12(2) insert the following sub-paragraphs—

"(2A) Where a member continues in employment to which a scheme applies after his pensionable service in that employment terminates—

(a) if regulations so provide, he only acquires a right to the cash equivalent of such part of the benefits specified in sub-paragraph (1) as may be prescribed; and

(b) if regulations so provide, he acquires no right to a cash equivalent.

(2B) Regulations may provide for the purposes of sub-paragraph (2A) that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.";

(b) paragraph 12(4) and the reference to it in paragraph 12(3) shall be omitted and shall be deemed never to have been included;

(c) in paragraph 13—

(i) in sub-paragraph (2)(c), for "such other type or types of pension arrangements as may be prescribed" substitute "other pension arrangements which satisfy prescribed requirements"; and

(ii) after that sub-paragraph insert the following sub-paragraph—

"(2A) Without prejudice to the generality of sub-paragraph (2), the powers conferred by that sub-paragraph include power to provide that a scheme, an annuity or pension arrangements must satisfy requirements of the Inland Revenue.";

(iii) in sub-paragraph (5)(b), for "them" substitute "the trustees or managers of the scheme from which he is being transferred"; and

(d) in paragraph 14—

(i) in sub-paragraph (1), for "The cash equivalents mentioned in paragraph 12(1)" substitute "Cash equivalents";

(ii) at the end of sub-paragraph (2), add (but not as part of head (c)) "and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body,"; and

(iii) for sub-paragraph (3)(b) substitute the following head—

"(b) that in prescribed circumstances a cash equivalent shall be increased or reduced."

25. In paragraph 4 of Schedule 3 (preservation of benefits under occupational pension schemes)—

(a) for "requisite benefits" in the first place where it occurs in sub-paragraph (2) and in sub-paragraph (3) substitute "a guaranteed minimum pension"; and

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- (b) for “his requisite benefits” in sub-paragraph (2) substitute “the guaranteed minimum pension”.

The Industrial Relations (Northern Ireland) Order 1976 (NI 16)

26.—(1) In the following provisions (which all relate to payments to pension schemes of contributions which are unpaid on employer’s insolvency) after “an occupational pension scheme” insert “or a personal pension scheme”—

- (a) Article 43(1) and (3);
- (b) Article 44(2);
- (c) Article 45(3); and
- (d) Article 46(1).

(2) In Article 43(2) “in accordance with an occupational pension scheme” substitute “to an occupational pension scheme or a personal pension scheme”.

(3) In Article 47(2) after the definition of “occupational pension scheme” insert the following definition—

““personal pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employees who have made arrangements with the trustees or managers of the scheme for them to become members of the scheme;”.

PART II

INCOME-RELATED BENEFITS

The Maintenance and Affiliation Orders Act
(Northern Ireland) 1966 (c. 35)

27. In section 10(2) (maintenance orders)—

- (a) in paragraph (d), for “Article 24 of the Supplementary Benefits (Northern Ireland) Order 1977” substitute “Article 26 of the Social Security (Northern Ireland) Order 1986”; and
- (b) in paragraph (e), for “Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977” substitute “Article 25 of the Social Security (Northern Ireland) Order 1986”.

The Payments for Debt (Emergency Provisions) Act
(Northern Ireland) 1971 (c. 30)

28. In section 1(3) (payment of certain public moneys), for the words from “benefit under” to “any such benefit” substitute “income support or family credit under Part III of the Social Security (Northern Ireland) Order 1986, or of ascertaining the amount thereof” and in paragraph (b) for “a benefit” substitute “income support or family credit”.

29. In section 11(4) (effect of emergency enforcement orders, etc.), for the words from “benefit under” to “any such benefit” substitute “income support or family credit, or of ascertaining the amount thereof”.

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30. In section 16(1) (interpretation)—

(a) the definitions of “the Act of 1966”, “the 1977 Order” and “the Act of 1971” shall cease to have effect; and

(b) after the definition of “emergency enforcement order” insert the following definition—

““income support or family credit” means income support or family credit under Part III of the Social Security (Northern Ireland) Order 1986 or any benefit under the Supplementary Benefits &c. Act (Northern Ireland) 1966, the Supplementary Benefits (Northern Ireland) Order 1977 or the Family Income Supplements Act (Northern Ireland) 1971;”.

The Health and Personal Social Services
(Northern Ireland) Order 1972 (NI 14)

31. In Article 99(2) (charges in respect of certain accommodation for persons in need), for the words from “supplementation” to “1977” substitute “income support which he may receive”.

The principal Act

32. The following provisions of the principal Act—

(a) section 87 (benefits to be inalienable); and

(b) section 154A(1) (necessity of claim for entitlement),

shall have effect in relation to income-related benefits as they have effect in relation to benefits under that Act.

The Industrial Relations (Northern Ireland) Order 1976 (NI 16)

33. In Article 72 (recoupment of benefit)—

(a) in paragraph (1)(a) and (c), for “supplementary benefit” substitute “income support”;

(b) in paragraph (2)—

(i) in sub-paragraph (b), for the words from “who” to the end of the sub-paragraph substitute “a right of appeal to a social security appeal tribunal against any decision of an adjudication officer as to the total or partial recoupment of income support in pursuance of the regulations;”; and

(ii) in sub-paragraph (c), for “supplementary benefit” substitute “income support”; and

(c) in paragraph (4), for the words from “supplementary benefit”, in the first place where those words occur, to the end substitute “income support, no sum shall be recoverable under the Social Security (Northern Ireland) Order 1986, and no abatement, payment or reduction shall be made by reference to the income support recouped.”.

The Rates (Northern Ireland) Order 1977 (NI 28)

34. In Article 31A(13) (rate rebates for certain hereditaments with special facilities for the disabled), for “a scheme made under Article 3 of the Housing Benefits (Northern Ireland) Order 1983” substitute “the housing benefit scheme”.

The Road Traffic (Northern Ireland) Order 1981 (NI 1)

35. In Article 129C(2)(b) (payments in respect of applicants for exemption

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from wearing seat belts) for the words from “of” to “and” substitute “of income support or family credit and”.

*The Legal Aid, Advice and Assistance
(Northern Ireland) Order 1981 (NI 8)*

36.—(1) In the following provisions for the words from “supplementary” to “1971” substitute “income support or family credit”—

- (a) Article 3(1)(b);
- (b) Article 7(2);
- (c) Article 14(5).

(2) In paragraph 3(g) of Part I of Schedule 1 (proceedings for which legal aid may be given under Part II of the Order), for “Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977” substitute “Article 25 of the Social Security (Northern Ireland) Order 1986”.

The Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26)

37. In Article 88 (“domestic proceedings”), in paragraph (c), after “1977” insert “or Article 25 of the Social Security (Northern Ireland) Order 1986”.

38. In Article 98(11) (enforcement of orders for periodical payment of money), in sub-paragraph (h), after “1977” insert “or Article 25 of the Social Security (Northern Ireland) Order 1986”.

PART III

BENEFITS UNDER THE PRINCIPAL ACT

The principal Act

39. In section 12(1) (descriptions of contributory benefits) for sub-paragraph (i) of paragraph (e) substitute the following sub-paragraph—

“(i) widow’s payment.”

40. In section 13 (contribution conditions) in subsection (1), in the Table headed “Other benefits” insert the following entry before the entry relating to widowed mother’s allowance—

“Widow’s payment . . .”.

41. Insert the following entry in section 156(2)(a) (regulations subject to confirmatory procedure) immediately after the entry relating to section 20(3)—

“section 61(3) (constant attendance allowance);”

42. In Schedule 3 (contribution conditions)—

(a) in paragraph 4(1) for the words preceding paragraph (a) substitute—

“Widow’s payment

4.—(1) The contribution condition for a widow’s payment is that—”;

(b) for “allowance” substitute “payment”—

(i) in sub-paragraph (2)(b) of paragraph 8; and

(ii) in the second place where it occurs in sub-paragraph (3) of that paragraph; and

(c) for paragraph 13 substitute the following paragraph—

“13. Where a woman claims a widow’s payment, the contributor concerned for the purposes of the claim shall be

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deemed to satisfy the contribution condition for the payment if on a claim made in the past for any short-term benefit he has satisfied the first contribution condition for the benefit, by virtue of paragraph 8 above, with contributions of a class relevant to widow's payment."

The Industrial Injuries and Diseases
(Northern Ireland Old Cases) Act 1975 (c. 17)

43. Omit the words following "pension rate" in section 2(6)(b) (weekly rates of benefit).

The Pensions Order

44. In Article 15(3) (rate of widowed mother's allowance and widow's pension) for "50" substitute "55".

45. In Article 17 (invalidity pension for widows)—

(a) in paragraph (1)—

(i) for sub-paragraphs (a) and (b) substitute the following sub-paragraphs—

"(a) is not entitled to a widowed mother's allowance on her late husband's death or subsequently ceases to be entitled to such an allowance; and

(b) is incapable of work at the time when he died or when she subsequently ceases to be so entitled; and";

(ii) in sub-paragraph (c), for "40" substitute "45";

(b) in paragraph (2)(a), for the words from "she" to the end substitute "her late husband died or she subsequently ceased to be entitled to a widowed mother's allowance;"; and

(c) in paragraph (4)(a), for "50" substitute "55".

PART IV

STATUTORY MATERNITY PAY, STATUTORY SICK PAY ETC.

The principal Act

46. Insert "(other than maternity allowance)"—

(a) after "that subsection", in subsection (2) of section 13; and

(b) after "for benefit", in subsection (8) of that section.

The Industrial Relations
(Northern Ireland) Order 1976 (NI 16)

47. In Article 43(4) (payment of unpaid contributions to occupational pension scheme), for "maternity pay" substitute "statutory sick pay, statutory maternity pay under Part VI of the Social Security (Northern Ireland) Order 1986, maternity pay under Part II of the No. 2 Order".

The Industrial Relations (No. 2) (Northern Ireland)
Order 1976 (NI 28)

48. In Article 15 (right to return to work) in paragraphs (2) and (3) for "rights" substitute "right" and in paragraph (4) for "either of the rights" substitute "the right".

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*The Social Security (Miscellaneous Provisions)
(Northern Ireland) Order 1977 (NI 11)*

49. In Article 14(2) (certain sums to be earnings for social security purposes), in sub-paragraphs (c), (d) and (e), for “No. 1 Order” substitute “Industrial Relations (Northern Ireland) Order 1976”.

The Social Security (Northern Ireland) Order 1982 (NI 16)

50. In Article 5, for paragraph (9) (definitions relating to period of entitlement to statutory sick pay) substitute the following paragraph—

“(9) In this Article—

“confinement” is to be construed in accordance with Article 51 of the Social Security (Northern Ireland) Order 1986;

“disqualifying period” means—

(a) in relation to a woman entitled to statutory maternity pay, the maternity pay period; and

(b) in relation to a woman entitled to maternity allowance, the maternity allowance period;

“maternity allowance period” has the meaning assigned to it by section 22(2) of the principal Act; and

“maternity pay period” has the meaning assigned to it by Article 48(1) of the Social Security (Northern Ireland) Order 1986.”.

The Companies (Northern Ireland) Order 1986 (NI 6)

51. In paragraph 11 of Schedule 18 (preferential debts), sub-paragraph (d) shall cease to have effect.

PART V

COMMON PROVISIONS

*The Registration of Births, Deaths and Marriages (Fees, etc.) Act
(Northern Ireland) 1955 (c. 29)*

52. In the Second Schedule (enactments for the purposes of which proof of the marriage of any person may be required), for the entry relating to the Social Security (Northern Ireland) Act 1975 substitute—

“The Social Security (Northern Ireland) Acts 1975 to 1986”.

The principal Act

53. In subsection (6)(aa) of section 14 (unemployment benefit and sickness benefit) and in subsection (4)(aa) of section 15 (invalidity pension) for “section 120 of this Act which corresponds to an increase under section 126A of the Social Security Act 1975” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986 which corresponds to an increase under section 63(1)(d) of the Social Security Act 1986”.

54. In subsection (1) of section 28 (Category A retirement pension) the words from “(subject” to “rule))” shall be omitted.

55. In section 90 (obligations of claimants) for subsection (3) substitute the following subsection—

“(3) The regulations relevant under subsection (2) above are—

(a) those made by virtue of the following provisions of this Chapter, namely—

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- (i) section 88(a), and
- (ii) section 89(1) and (2); and
- (b) those made by virtue of Article 52(1)(h), (j) and (k) of the Social Security (Northern Ireland) Order 1986.”.

56. For section 154A substitute the following section—

“General provision as to necessity of claim for entitlement to benefit. 154A.—(1) Except in such cases as may be prescribed, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—

- (a) he makes a claim for it in the prescribed manner and within the prescribed time; or
- (b) by virtue of regulations made under Article 52 of the Social Security (Northern Ireland) Order 1986 he is treated as making a claim for it.

(2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—

- (a) if the benefit is a widow’s payment, she shall not be entitled to it in respect of a death occurring more than twelve months before the date on which the claim is made or treated as made; and
- (b) if the benefit is any other benefit, except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than twelve months before that date.”.

57. In section 154A(3)(c), as originally enacted, after “disablement benefit” insert “, reduced earnings allowance”.

The Pensions Order

58. In Article 69(1) (increase of official pensions), for “Article 25” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986”.

59. In Schedule 1 (deferred retirement)—

- (a) in paragraphs 2(5) and 4(3)(b), for “section 120 of the principal Act” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986”; and
- (b) in paragraph 4A(3)(a), for “section 120 of the principal Act corresponding to an order under section 126A of the Social Security Act 1975” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986 corresponding to an order under section 63(1)(d) of the Social Security Act 1986”.

60. In Part I of Schedule 1A (revaluation of pensions), in paragraph 8(a)(i) for “section 120 of the principal Act as that section applies by virtue of Article 25” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986 as that Article applies”.

The Child Benefit (Northern Ireland) Order 1975 (NI 16)

61. At the end of paragraph (1) of Article 8 (child benefit claims and payments) add “and within the prescribed time”.

62. In paragraph 1 of Schedule 3 (increases in rate of benefit), after “Article 7” insert “or Article 64 of the Social Security (Northern Ireland) Order 1986”.

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*The Births and Deaths Registration
(Northern Ireland) Order 1976 (NI 14)*

63. In Schedule 1 (statutory provisions for the purposes of which proof of the age or death of any person may be required), for the entry relating to the Social Security (Northern Ireland) Act 1975 substitute—

“The Social Security (Northern Ireland) Acts 1975 to 1986”.

The Social Security Act 1980 (c. 30)

64. In section 10 (consultation with Social Security Advisory Committee on proposals for regulations)—

(a) in subsection (1), after “1986” insert “and Article 62 of the Social Security (Northern Ireland) Order 1986”; and

(b) in subsection (9), after “1986” insert “or Article 62 of the Social Security (Northern Ireland) Order 1986”.

The Social Security (Northern Ireland) Order 1985 (NI 16)

65. In Article 11(9) (abatement of invalidity allowance) for “section 120 of the principal Act corresponding to an order under sections 124 and 126A of the Social Security Act 1975” substitute “Article 64 of the Social Security (Northern Ireland) Order 1986 corresponding to an order under section 63 of the Social Security Act 1986”.

PART VI

MISCELLANEOUS

*The Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924
(c. 27)*

66. In section 2 (provisions as to summons)—

(a) in subsection (2), for “or pursuant to Article 24 of the Supplementary Benefits (Northern Ireland) Order 1977 by the Department of Health and Social Services” substitute “or pursuant to Article 26 of the Social Security (Northern Ireland) Order 1986 by the Department of Health and Social Services”;

(b) in subsection (3), for “Article 24(2) of the Supplementary Benefits (Northern Ireland) Order 1977” substitute “Article 26(1) of the Social Security (Northern Ireland) Order 1986”.

The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

67. In section 20(2)(a) (neglect of child or young person), for “the Supplementary Benefits (Northern Ireland) Order 1977” substitute “the Social Security (Northern Ireland) Order 1986”.

*The National Insurance Measure
(Northern Ireland) 1974 (c. 4)*

68. In section 5(1), for “the Social Security (Northern Ireland) Act 1975” substitute “the Social Security (Northern Ireland) Acts 1975 to 1986”.

The principal Act

69. In section 4(6) (incidence of Class 1 contributions) after “under” insert “subsection (7) below or under”.

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70. In section 155(8)(regulations), for “and (3)” in the second place where it occurs substitute “to (3A)”.

The Supplementary Benefits (Northern Ireland) Order 1977 (NI 27)

71. In Article 12 (persons affected by trade disputes)—

(a) in paragraph (1), for the words from the beginning to “period”, in the second place where it occurs substitute—

“So long as this Article applies to a person, his requirements”;
and

(b) for paragraph (2) substitute the following paragraphs—

“(2) This Article applies to a person—

(a) who is disqualified under section 19 of the Social Security (Northern Ireland) Act 1975 for receiving unemployment benefit; or

(b) who would be so disqualified if otherwise entitled to that benefit,

except during any period shown by the person to be a period of incapacity for work by reason of disease or bodily or mental disablement or to be within the maternity period.

(2A) In paragraph (2) “the maternity period” means the period commencing at the beginning of the sixth week before the expected week of confinement and ending at the end of the seventh week after the week in which confinement takes place.”.

The Social Security Act 1980 (c. 30)

72. In section 9(7) (enactments, regulations under which are to be referred to the Social Security Advisory Committee), for “the Social Security (Northern Ireland) Acts 1975 to 1985” in both places where it occurs substitute “the Social Security (Northern Ireland) Acts 1975 to 1986”.

73. In paragraph 13 of Schedule 3 (regulations not requiring prior submission to Social Security Advisory Committee) after “Pensions Act” insert “or Article 5(2)(a) of the Social Security Pensions (Northern Ireland) Order 1975”.

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74. The reference to Article 11 of the Social Security (Northern Ireland) Order 1982 in paragraph 15A of that Schedule shall include a reference to paragraph (1A) of that Article.

The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6)

75. In Article 3(5)(c) (social security benefits, etc., not earnings for purposes of provisions relating to attachment of earnings), for the words from “of the following” to “1977” substitute “enactment relating to social security”.

The Forfeiture (Northern Ireland) Order 1982 (NI 14)

76. In Article 6—

(a) in paragraph (4), for “and (3)” substitute “to (3A)”;

(b) in paragraph (5), for the words from “the Family Income Supplements Act (Northern Ireland) 1971” to “the Social Security Act 1980” substitute—

“the Child Benefit (Northern Ireland) Order 1975,
the Social Security (Northern Ireland) Acts 1975 to 1986,”.

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The Social Security (Northern Ireland) Order 1985 (NI 16)

77. In Article 7(1)(a) (regulations as to who is to be treated as a manager of an occupational pension scheme for purposes of certain enactments), for “the Social Security (Northern Ireland) Acts 1975 to 1985” substitute “the Social Security (Northern Ireland) Acts 1975 to 1986”.

SCHEDULE 10

Article 83(2).

REPEALS

Chapter or Number	Title	Extent of repeal
1923 c. 9 (N.I.).	The Criminal Evidence Act (Northern Ireland) 1923.	In Schedule 1, the entry relating to the Supplementary Benefits (Northern Ireland) Order 1977.
1966 c. 28 (N.I.).	The Supplementary Benefits &c. Act (Northern Ireland) 1966.	Section 26.
1968 c. 34 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1968.	In section 119(3), the words from “less any amount” to “section 32 of the Social Security (Northern Ireland) Act 1975”.
1971 c. 2 (N.I.).	The Welfare Services Act (Northern Ireland) 1971.	In section 25(4), the words from “less any amount” to “section 32 of the Social Security (Northern Ireland) Act 1975”.
1971 c. 8 (N.I.).	The Family Income Supplements Act (Northern Ireland) 1971.	The whole Act.
1971 c. 30 (N.I.).	The Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971.	In section 16(1), the definitions of “the Act of 1966”, “the 1977 Order” and “the Act of 1971”.
1972 NI 14.	The Health and Personal Social Services (Northern Ireland) Order 1972.	In Article 39(2), the words from “less any amount” to “section 32 of the Social Security (Northern Ireland) Act 1975”.

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Chapter or Number	Title	Extent of repeal
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	<p>In section 1(1)(b), the words "and the Maternity Pay Fund".</p> <p>In section 12, in subsection (1), paragraph (h), in subsection (2), the words "and widow's allowance" and subsection (3).</p> <p>In section 13, in subsection (1), the entries relating to widow's allowance and death grant, subsection (5)(a) and subsection (5A).</p> <p>Section 21.</p> <p>In section 25(3), the words "and for which she is not entitled to a widow's allowance".</p> <p>In section 26(3), the words "a widow's allowance or".</p> <p>In section 28(1), the words from "(subject" to "rule)".</p> <p>Section 32.</p> <p>Section 33(1)(a) to (c).</p> <p>Section 34(2).</p> <p>In section 37(3), the words from "and a woman" to the end.</p> <p>Section 37A(6).</p> <p>Section 41(2)(e) and (2C).</p> <p>Section 50(2) and (5).</p> <p>Section 57(5).</p> <p>Sections 58 and 59.</p> <p>Section 60.</p> <p>Section 62.</p> <p>Sections 64 to 75.</p> <p>Sections 79 to 81.</p> <p>In section 82, subsections (3) and (4) and subsection (6)(a).</p> <p>In section 84, subsection (3) and in subsection (5), the references to sections 65 and 66.</p>

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Chapter or Number	Title	Extent of repeal
		<p>Section 86.</p> <p>In section 88(a), the words from "or", in the first place where it occurs, to "prescribed", in the third place where it occurs.</p> <p>In section 90, in subsection (2)(a), the words from "(including" to the end and in subsection (3), the references to sections 79 and 81.</p> <p>In section 91, subsection (1)(b)(i) and in subsection (2), the words "section 58 (unemployability supplement)," and the words from "section 64" to the end.</p> <p>Section 92.</p> <p>Section 95.</p> <p>In section 100, in subsection (1), the words "adversely to the claimant" and subsection (5).</p> <p>In section 101(3)(c), the words "or, in relation to industrial death benefit, the deceased".</p> <p>In section 104(1A), the words "in prescribed circumstances".</p> <p>Section 106(3).</p> <p>In section 107, in subsection (4), the words " , whether or not the claimant is the person at whose instance the declaration was made" and in subsection (6), the words "by fresh evidence", paragraph (b) and the word "but" immediately preceding that paragraph.</p>

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Chapter or Number	Title	Extent of repeal
		<p>In section 110(1), the words "by fresh evidence".</p> <p>Section 114(3) and (4).</p> <p>In section 117, subsection (4) and in subsection (5), paragraph (a).</p> <p>In section 119, subsections (1) to (2A), in subsection (3)(b), the words "or out of a requirement to repay any amount by virtue of subsection (2A)", subsection (4)(b) to (d) and subsection (5).</p> <p>In section 120, the words "124 or 126A".</p> <p>Section 121.</p> <p>In section 128(5)(b), the words from "and the Maternity Pay Fund" to "determine".</p> <p>In section 129, subsections (2)(g) and (6).</p> <p>Section 130.</p> <p>In section 134(1), the words "relating to social security".</p> <p>Sections 135 and 136.</p> <p>In section 137, in subsection (1), the words "under Part IV of the Pensions Order" and subsections (3)(c) and (5).</p> <p>Section 138.</p> <p>In section 142(1), the words "under Part IV of the Pensions Order".</p> <p>In section 143(6), the words "of the Pensions Order (including in particular Articles 48 and 73(2)) and the words "under that Order".</p> <p>Section 154.</p>

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Chapter or Number	Title	Extent of repeal
		<p>In section 155(5), the words “, other than section 86(1) to (4),”.</p> <p>In section 156(2)(a), the words “wholly or partly”.</p> <p>In Schedule 3, in Part I, paragraph 7 and, in Part II, in paragraph 8(2), in head (a), the words “other than widow’s allowance”, in paragraph 8(3), the words “or a maternity allowance,” in paragraphs 9 and 10, the words “(other than a widow’s allowance)” and paragraph 12.</p> <p>In Schedule 4, in Part I, paragraph 5, Part II, in Part IV, paragraph 4 and in Part V, paragraphs 2, 4 to 6, 10 and 12 to 15.</p> <p>Schedule 5.</p> <p>In Schedule 8, paragraph (b) of the proviso to paragraph 5 and the word “and” immediately preceding it.</p> <p>Schedule 9.</p> <p>Schedule 14.</p> <p>In Schedule 17 the definitions of “The deceased” and “Industrial death benefit”, in the definition of “Relative”, the reference to sections 66(8) and 72(6), in the definition of “Short-term benefit” the words “and widow’s allowance”, the definitions of “Unemployability supplement” and “Up-</p>

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Chapter or Number	Title	Extent of repeal
1975 c. 17.	The Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975.	rating order”, and in the definition of “Week”, the reference to section 64. In section 2(6)(b), the words following “pension rate”. In section 4(3), in paragraph (c) the words from “or any regulations” to “benefit”. Section 5(3). Section 6.
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 2, paragraphs 78, 103, 105 and 111. In Schedule 3, in paragraph 31, the reference to paragraph 18.
1975 NI 15.	The Social Security Pensions (Northern Ireland) Order 1975.	In Article 2(2), the definition of “requisite benefits” and, in the definition of “resources”, the words “(whether requisite benefits or other benefits)”. In Article 8, in paragraph (2), the words from “or” to the end, in paragraph (5), the words “Subject to paragraph (5A),” and paragraph (5A). In Article 21(2), the words “and (3)(b)”. Article 24(3) and (5). Article 25. Article 32(2). In Article 34(4), the words “relating to the scheme or its management”. Article 35(1)(a) and (4). Article 36. Article 37(10).

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Chapter or Number	Title	Extent of repeal
1975 NI 16.	The Child Benefit (Northern Ireland) Order 1975.	<p>In Article 38, paragraphs (2), (4) and (5), in paragraph (6), the words "Subject to the following provisions of this Article", paragraph (7), in paragraph (8), the words from "but the scheme" to the end and paragraph (9). Article 39.</p> <p>In Article 41, paragraphs (2), (3) and (4)(a). Article 43(4).</p> <p>In Article 46A(1)(b) and (4), the words "to requisite benefits". Article 50(3) and (7). Article 53D(2) and (3). Article 58J(4).</p> <p>In Schedule 1A, in paragraph 12, in sub-paragraph (3), the words "Subject to sub-paragraph (4)," and sub-paragraph (4).</p> <p>In Schedule 2, paragraph 4.</p> <p>In Schedule 5, paragraphs 13, 34, 35 and 43.</p> <p>In Article 2(2), in the definition of "recognised educational establishment", the words from "and" to the end.</p> <p>Article 8(2), (4) and (5). Articles 9 and 10. Articles 12 and 13.</p> <p>In Article 17(1), the words "relating to child benefit". Article 19(3) to (6).</p> <p>In Schedule 4, paragraphs 5 to 7, 12, 22 to 25, 27, 28, 30, 32 and 34.</p>

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Chapter or Number	Title	Extent of repeal
1976 NI 16.	The Industrial Relations (Northern Ireland) Order 1976.	Article 42(4)(e). In Article 43(5), the words "occupational pension". In Article 47(2), the word "such" in the second place where it occurs. In Article 72(7), the definition of "supplementary benefit".
1976 NI 28.	The Industrial Relations (No. 2) (Northern Ireland) Order 1976.	In Article 2(2) the definitions of "maternity pay" and "the Maternity Pay Fund". In Article 15, paragraph (1)(a), in paragraph (2), sub-paragraph (c) and in sub-paragraph (d) the words "in the case of the right to return" and in paragraph (3), the words "to return". Articles 16 to 19. In Article 20, paragraph (2) and in paragraph (4) the entry relating to the Northern Ireland Maternity Pay Fund. Articles 21 to 27. In Article 56(2)(a), "15,". Article 60(2)(a). Article 61 (1)(b). In Article 62, in paragraph (1), "27" and paragraph (7). In Article 63(2), "16(3), 17(6)". Article 64.
1977 NI 11.	The Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977.	Article 8. Article 13(2). In Article 14, paragraph (1)(c) and in paragraph (2) sub-paragraphs (a) and (b). Article 15.

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Chapter or Number	Title	Extent of repeal
1977 NI 27.	The Supplementary Benefits (Northern Ireland) Order 1977.	<p>In Article 18, in paragraph (2), the references to sections 24(2) and 37(3)(b) of the principal Act, in paragraph (3), the words “and paragraph (b) of section 65(2)”, and paragraph (4).</p> <p>In Article 2, paragraph (2) except the definitions of “the Department” and “voluntary organisation”, and paragraph (2A). Articles 3 to 27. Articles 30 to 33. Article 35. Articles 39 to 41. Schedule 1. In Schedule 6, paragraphs 1, 2, 9, 10, 12, 14, 15(1), 16, 17, 18(1), 20 and 22.</p>
1979 NI 5.	The Social Security (Northern Ireland) Order 1979.	<p>Articles 7 to 9. In Schedule 1, paragraphs 12 and 13. In Schedule 3, paragraphs 8, 12, 18, 19(c) and 20.</p>
1979 NI 9.	The Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979.	<p>In Article 2(2), the definition of “death benefit”.</p>
1980 c. 30.	The Social Security Act 1980.	<p>In section 9(7), the words “the Family Income Supplements Act (Northern Ireland) 1971” and the words “and the Supplementary Benefits (Northern Ireland) Order 1977”.</p> <p>In section 10, subsection (2)(a), subsection (7), and in subsection (8) the words “or (7)”.</p>

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Chapter or Number	Title	Extent of repeal
1980 NI 8.	The Social Security (Northern Ireland) Order 1980.	<p>Article 5(3) and (4). In Article 6, in paragraph (1) the words from "and in subsection (2)" in subparagraph (i) to the end of the paragraph, and paragraphs (2) to (4). Article 8. In Article 9(1), the words "or 8". Article 11. In Article 12(2), subparagraphs (d) to (f). Article 15(3). In Schedule 1, in paragraph 4, the words "and 66(1)(d)" in each place where they occur and "66(6)(d)" and "respectively", paragraph 6 and in paragraph 9, the words "or section 95(1)(a) or (c)" and paragraphs 10 and 12. In Schedule 2, paragraphs 1 to 19, and 21 to 29. In Schedule 3, paragraphs 1, 8(a)(ii) and (b) and 11.</p>
1980 NI 13.	The Social Security (No. 2) (Northern Ireland) Order 1980.	<p>In Article 3(3), the words from "and in subsection (4)" to "disregarded". In Article 4(2), the words "and no earnings-related addition to a widow's allowance". Article 6.</p>
1981 NI 25.	The Social Security (Northern Ireland) Order 1981.	<p>Article 3. Article 5. In the Schedule, paragraphs 1, 2, 3(b), 4, 5, 8 and 9.</p>

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Chapter or Number	Title	Extent of repeal
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 119 and 139.
1982 NI 16.	The Social Security (Northern Ireland) Order 1982.	In Article 9, paragraphs (3) and (4). Article 10. Article 11(8) to (10). Articles 13 to 18. Articles 21 to 23. Article 27. Article 31. Article 34. Article 35(1)(a) and (f). In Schedule 2, paragraphs 6 and 13. Schedule 3. In Schedule 4, paragraphs 2, 9 to 11, 14, 16 and 20.
1983 NI 14.	The Housing Benefits (Northern Ireland) Order 1983.	The whole Order.
1983 NI 17.	The Social Security Adjudications (Northern Ireland) Order 1983.	Article 5(3). In Schedule 1, Parts II and III, and paragraphs 17 to 19.
1984 NI 8.	Health and Social Security (Northern Ireland) Order 1984.	In Article 1(3), "16". In Article 8, paragraph (b) and the word "and" immediately preceding that paragraph. Article 16. In Schedule 2, in paragraph 2 the entry relating to section 79 and paragraphs 10 and 12. In Schedule 3, paragraphs 3 to 5. In Schedule 5, paragraph 9(b).
1985 NI 16.	The Social Security (Northern Ireland) Order 1985.	In Article 1(5), the words "Article 17". Article 11(4). Article 15(5). Articles 16 and 17. Article 23(7)(e).

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Chapter or Number	Title	Extent of repeal
1986 NI 6.	The Companies (Northern Ireland) Order 1986.	In Schedule 4, paragraph 1. In Schedule 5, paragraphs 1, 2, 8(b), 11, 29 and 30. In Schedule 18, paragraph 11(d).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order is made only for purposes corresponding to those of the Social Security Act 1986. It makes provision for personal pension schemes and amends the law relating to social security and occupational pension schemes. It abolishes maternity pay and provides for the winding up of the Northern Ireland Maternity Pay Fund. It also provides for the establishment of a social fund and empowers the Department to pay certain travelling expenses in connection with social security.

Part I is introductory.

Part II provides for the Department, except in prescribed circumstances, to pay minimum contributions to an "appropriate" personal pension scheme (Article 3). Article 4 and Schedule 1 provide for the requirements which must be satisfied if a personal pension scheme is to be "appropriate" and Article 5 provides for the calculation of the amount of a minimum contribution. Among other provisions in Part II, Article 8 and Schedule 2 enable occupational pension schemes which provide money purchase benefits to be contracted-out of the state earnings-related pension scheme, and Article 9 provides for the Department to make a payment from 6th April 1988 to 5th April 1993 to an occupational pension scheme which becomes contracted-out after 1st January 1986, for employed earners who have not previously been in contracted-out employment.

Part III establishes schemes of entitlement to income support, family credit and housing benefit. Article 21 sets out criteria for entitlement and Articles 22 and 23 contain provisions regarding the amount of these income-related benefits. Articles 24 to 28 and Articles 29 to 32 contain further provisions relating to income support and housing benefit respectively.

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Part IV provides for the establishment of a social fund maintained and controlled by the Department of Health and Social Services from which payments may be made for maternity and funeral expenses and in other circumstances in accordance with directions given or guidance issued by the Department. Part IV also provides for the appointment of social fund officers, social fund inspectors and a social fund Commissioner.

Part V abolishes maternity grant, child's special allowance, death grant and the reduced rate of short-term benefits under the Social Security (Northern Ireland) Act 1975. Among other changes are the provision of a widow's payment of £1,000 in place of widow's allowance, the extension to married women of entitlement to invalid care allowance and amendments relating to the industrial injuries scheme and to unemployment benefit.

Part VI makes provision for employers to pay statutory maternity pay to their employees or former employees who are pregnant. Schedule 4 enables regulations to be made for the recovery by employers of statutory maternity pay from national insurance contributions. Schedule 4 also repeals the provisions of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 relating to maternity pay and winds up the Northern Ireland Maternity Pay Fund. Part II of that Schedule provides for the continuation of state maternity allowance subject to changed qualifying conditions.

Part VII replaces various existing provisions in social security legislation so as to provide a common legislative basis for the general administration of social security benefits and Part VIII contains miscellaneous, general and supplementary provisions.

STATUTORY INSTRUMENTS

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