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STATUTORY INSTRUMENTS

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**1990 No. 1511**

**The Social Security (Northern Ireland) Order 1990**

*Benefits*

**Retrospective effect of section 154A of the principal Act**

7.—(1) After section 154A of the principal Act there shall be inserted the following section—

**“Retrospective effect of section 154A.**

**154B.**—(1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 154A above, as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.

(2) Where this section applies, any question arising as to—

- (a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends; or
- (b) in a case where the claimant’s entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,

shall be determined as if section 154A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, had also been in force, with any necessary modifications, at all times relevant for the purpose of determining the entitlement of the claimant, and, where applicable, of the other person, to the benefit or benefits in question (including the entitlement of any person to any benefit on which that entitlement depends, and so on).

(3) In any case where—

- (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date, but
- (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date, and
- (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit,

then, in determining whether the conditions of entitlement to the benefit so claimed are satisfied, the person to whom benefit was awarded as mentioned in paragraphs (a) and (b) above shall be taken to have been entitled to the benefit so awarded, notwithstanding anything in subsection (2) above.

(4) In subsection (3) above “the current requirements” means—

- (a) the provisions of section 154A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, with any necessary modifications; and
  - (b) subsection (1) (with the omission of the words following “at any time”) and subsection (2) above.
- (5) Any reference in any enactment to section 154A of this Act (but not a reference to any specific provision of that section) shall be taken to include a reference to this section.
- (6) This section shall be taken to have come into force on 2nd September 1985.”.
- (2) In Schedule 17 to the principal Act (glossary of expressions), the entry relating to “entitled” and cognate expressions—
- (a) shall be taken at all times on or after 2nd September 1985 but before the commencement of this paragraph to have had effect with the substitution, in the second column, of the words “sections 154A and 154B” for the words “section 154A”; and
  - (b) shall have effect as from the commencement of this paragraph with the substitution for those words of the words “sections 154A to 154D”.
- (3) Article 1(6) of the Social Security (Northern Ireland) Order 1985<sup>(1)</sup> (which made similar provision to that made by subsection (3) of the section inserted by paragraph (1)) shall be deemed never to have been made.
- (4) In paragraph 32 of Schedule 9 to the 1986 Order (which applies sections 87 and 154A(1) of the principal Act to income-related benefits), in sub-paragraph (b), for the words “section 154A(1)” there shall be substituted the words “sections 154A(1) and 154B”.
- (5) Paragraph 32 of Schedule 9 to the 1986 Order shall have effect, and be taken always to have had effect, as if it had originally been made as amended by paragraph (4).