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STATUTORY INSTRUMENTS

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**2016 No. 999**

**The Welfare Reform and Work (Northern Ireland) Order 2016**

*Benefit cap*

**Benefit cap**

5.—(1) Article 101 of the 2015 Order (benefit cap) is amended as set out in paragraphs (2) to (5).

(2) For paragraph (5) (meaning of the “relevant amount”) substitute—

“(5) Regulations under this Article may make provision for determining the “relevant amount” for the reference period applicable in the case of a single person or couple by reference to the annual limit applicable in the case of that single person or couple.

(5A) For the purposes of this Article the “annual limit” is £20,000 or £13,400.

(5B) Regulations under paragraph (5) may—

(a) specify which annual limit applies in the case of—

- (i) different prescribed descriptions of single person;
- (ii) different prescribed descriptions of couple;

(b) provide for the rounding up or down of an amount produced by dividing the amount of the annual limit by the number of periods of a duration equal to the reference period in a year.”

(3) Paragraph (6) (estimated average earnings) and the definition of “estimated average earnings” in paragraph (7) are omitted.

(4) In paragraph (7), in the definition of “welfare benefit”, for the words from “means” to the end substitute—

“means—

- (a) bereavement allowance (see section 39B of the Contributions and Benefits Act),
- (b) child benefit (see section 137 of the Contributions and Benefits Act),
- (c) child tax credit (see section 1(1)(a) of the Tax Credits Act 2002),
- (d) employment and support allowance (see section 1 of the Welfare Reform Act (Northern Ireland) 2007), including income-related employment and support allowance (as defined in subsection (7) of that section),
- (e) housing benefit (see section 129 of the Contributions and Benefits Act),
- (f) incapacity benefit (see section 30A of the Contributions and Benefits Act),
- (g) income support (see section 123 of the Contributions and Benefits Act),
- (h) jobseeker's allowance (see Article 3 of the Jobseekers Order), including income-based jobseeker's allowance (as defined in paragraph (4) of that Article),
- (i) maternity allowance under section 35 or 35B of the Contributions and Benefits Act 1992,
- (j) severe disablement allowance (see section 68 of the Contributions and Benefits Act),
- (k) universal credit,

*Status: Point in time view as at 07/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Welfare Reform and Work (Northern Ireland) Order 2016, Benefit cap. (See end of Document for details)*

- (l) widow's pension (see section 38 of the Contributions and Benefits Act 1992),
- (m) widowed mother's allowance (see section 37 of the Contributions and Benefits Act), or
- (n) widowed parent's allowance (see section 39A of the Contributions and Benefits Act).”
- (5) Paragraph (8) (benefits that regulations may not prescribe as welfare benefits) is omitted.
- (6) Regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of paragraphs (1) to (5).
- (7) Regulations under paragraph (6) may in particular—
  - (a) provide for Article 101 of the 2015 Order to have effect as if the amendments made by paragraphs (1) to (5) had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;
  - (b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;
  - (c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices.
- (8) Regulations under paragraph (6) are subject to negative resolution.

#### Commencement Information

- I1** [Art. 5](#) partly in operation; [art.5](#) in operation for specified purposes at 13.10.2016 see [art. 2\(2\)\(b\)](#)
- I2** [Art. 5](#) in operation at 7.11.2016 in so far as not already in operation by [S.R. 2016/374](#), [art. 2](#)

#### Review of benefit cap

6.—(1) After Article 101 of the 2015 Order insert—

##### “Benefit cap review

**101A.**—(1) If the Secretary of State makes regulations under section 96A(4) of the Welfare Reform Act 2012 which amend section 96(5A)(b) of that Act, the Department may make corresponding regulations amending Article 101(5A).

- (2) The regulations may provide for amendments of Article 101(5A) to come into force—
  - (a) on different days for different areas;
  - (b) on different days for different cases or purposes.
- (3) The regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of any amendment made by the regulations.
- (4) The regulations may in particular—
  - (a) provide for Article 101(5A) to have effect as if the amendments made by the regulations had not been made, in relation to such persons or descriptions of persons as are specified in the regulations or generally, until a time or times specified in a notice issued by the Department;
  - (b) provide for the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person;

- (c) make provision about the issuing of notices under sub-paragraph (a), including provision for the Department to issue notices to the Housing Executive and the Department of Finance that have effect in relation to persons specified, or persons of a description specified, in the notices.”
- (2) In Article 102 of the 2015 Order (benefit cap: supplementary) after paragraph (1) insert—
- “(1A) Regulations under Article 101A must be laid before the Assembly after being made and take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of 6 months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.”

### **Functions of Social Security Advisory Committee in relation to benefit cap**

7.—(1) In section 170 of the Social Security Administration Act 1992 (functions of Social Security Advisory Committee), in subsection (5), in the definition of “the relevant Northern Ireland enactments”, after paragraph (al) insert—

“(ala) any provisions in Northern Ireland which correspond to sections 96 to 97 of that Act;”.

(2) In section 149 of the Administration Act (functions of Social Security Advisory Committee) in subsection (5) after paragraph (ak) insert—

“(aka) Articles 101 to 102 of that Order;”.

(3) In Schedule 5 to the Administration Act (regulations not requiring prior submission to Social Security Advisory Committee), after paragraph 3 insert—

*“Benefit cap*

**3A.** Regulations under Article 101A of the Welfare Reform (Northern Ireland) Order 2015.”

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