

2002 No. 321

SOCIAL SECURITY

**The Deregulation (Carer's Allowance) Order
(Northern Ireland) 2002**

Made - - - - - 18th October 2002

Coming into operation in accordance with Article 1(1)

Whereas the Secretary of State has made an Order(a) under section 1 of the Regulatory Reform Act 2001(b):

Now, therefore, the Department for Social Development, in exercise of the powers conferred by Article 17(1) to (3) of the Deregulation and Contracting Out (Northern Ireland) Order 1996(c), and now vested in it(d), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 and shall come into operation –

(a) except for the purposes of Article 2, on 28th October 2002; and

(b) for the purposes of Article 2 –

(i) for the purposes of exercising powers to make subordinate legislation to come into operation on or after 1st April 2003 (being powers or subordinate legislation which apart from Article 2 would refer to invalid care allowance), on 21st October 2002; and

(ii) for all other purposes, on 1st April 2003.

(2) In this Order –

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(e); and

“subordinate legislation” means orders, rules, regulations and other instruments made under any statutory provision.

Invalid care allowance to be known as carer's allowance

2.—(1) Invalid care allowance shall be known as carer's allowance.

(2) In each of the following statutory provisions for “invalid care allowance” there shall be substituted “carer's allowance” preceded, where appropriate, by “a” instead of “an” –

(a) S.I. 2002/1457

(b) 2001 c. 6

(c) S.I. 1996/1632 (N.I. 11); paragraph (1) was amended by section 7(2) of the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)) and paragraph (2) was amended by paragraph 12 of Schedule 3 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (S.I. 1997/1183 (N.I. 12)), paragraph 116 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), paragraph 60 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and section 7(3) of the Social Security Act (Northern Ireland) 2002

(d) See Article 8(b) of S.R. 1999 No. 481

(e) 1992 c. 7

- (a) in the Contributions and Benefits Act –
 - (i) section 44A(2)(b)(a) (deemed earnings factors);
 - (ii) section 63(c) (descriptions of non-contributory benefits);
 - (iii) the cross heading and shoulder heading preceding section 70 (invalid care allowance) and subsections (1) and (9) of that section;
 - (iv) section 90(b) (beneficiaries under sections 68 and 70);
 - (v) section 146(1)(e) (interpretation of Part X);
 - (vi) Schedule 4, Part III, paragraph 4 (non-contributory periodical benefits); and
 - (vii) Schedule 4, Part IV, paragraph 9 (increases for dependants);
- (b) in the Social Security Administration (Northern Ireland) Act 1992(c) –
 - (i) section 2A(2)(f)(d) (work-focused interviews); and
 - (ii) section 2AA(2)(e)(e) (work-focused interviews for partners); and
- (c) in Schedule 2 to the Social Security (Northern Ireland) Order 1998(f) (decisions against which no appeal lies), the cross heading preceding paragraph 3.

Amendment of section 70 of the Contributions and Benefits Act

3.—(1) Section 70 of the Contributions and Benefits Act (invalid care allowance) shall be amended in accordance with paragraphs (2) and (3).

(2) After subsection (1) there shall be inserted the following subsection –

“(1A) A person who was entitled to an allowance under this section immediately before the death of the severely disabled person referred to in subsection (1) above shall, notwithstanding that he is no longer engaged in caring for a severely disabled person and the requirements of paragraphs (a) and (c) of that subsection are no longer satisfied, continue to be entitled to it until –

- (a) the end of the week in which he ceases to satisfy any other requirement as to entitlement to the allowance; or
- (b) the expiry of the period of 8 weeks beginning with the Sunday following the death (or beginning with the date of death if the death occurred on a Sunday),

whichever first occurs.”.

(3) Subsections (5) and (6)(g) are hereby repealed.

Transitional provision

4. Notwithstanding the repeal of section 70(6) of the Contributions and Benefits Act, a person who had attained the age of 65 and was entitled to an allowance under that section immediately before 28th October 2002 shall continue to be so entitled, notwithstanding that he is not caring for a severely disabled person or no longer satisfies the requirements of subsection (1)(a) or (b) of that section, for as long as he continues to satisfy the other requirements for entitlement to the allowance specified in or under that section.

Sealed with the Official Seal of the Department for Social Development on 18th October 2002.

(L.S.)

John O'Neill

Senior Officer of the Department for Social Development

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- (a) Section 44A was inserted by section 29(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
 - (b) Section 90 was amended by paragraph 25 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
 - (c) 1992 c. 8
 - (d) Section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
 - (e) Section 2AA is inserted by section 5 of the Social Security Act (Northern Ireland) 2002
 - (f) S.I. 1998/1506 (N.I. 10)
 - (g) Subsections (5) and (6) were amended by regulation 2(3) of the Social Security (Severe Disablement Allowance and Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 1994 (S.R. 1994 No. 370)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order, which corresponds to an Order (S.I. 2002/1457) made by the Secretary of State for Work and Pensions under section 1 of the Regulatory Reform Act 2001, makes a number of amendments in relation to invalid care allowance.

Article 2 provides for the benefit to be renamed carer's allowance and makes a number of consequential amendments to the Social Security Contributions and Benefits (Northern Ireland) Act 1992, ("the Contributions and Benefits Act"), the Social Security Administration (Northern Ireland) Act 1992 and the Social Security (Northern Ireland) Order 1998.

Article 3(2) amends section 70 of the Contributions and Benefits Act to provide that a carer may continue to receive the allowance for a specified period after the death of the severely disabled person for whom he had been caring.

Article 3(3) repeals section 70(5) and (6) of the Contributions and Benefits Act.

Article 4 preserves entitlement to the allowance in the case of any person over the age of 65 who is entitled to it immediately before this Order comes into operation.

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