



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XII

SUPPLEMENTARY PROVISIONS

Subordinate legislation, etc.

177 Orders and regulations (general provisions)

- (1) Any power under this Act to make regulations or orders (except a power of the Board or the court to make orders and regulations made by the Secretary of State under section 160) and the powers to make rules under sections 145(2) and 148(1) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (2) Where a power conferred by this Act is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.
- (3) Any power to make regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make regulations or an order for the purposes of any other provision.
- (4) Any power conferred by this Act to make regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.
- (5) Subsection (4) has effect—
 - (a) in its application to regulations and orders made under the following provisions, namely Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 132 to 134, 135(2) and (3), 136, 137,

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138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171, with the omission of the words “consequential or transitional”; and

- (b) in its application to orders made under section 149(8), with the omission of the word “consequential”.
- (6) Any power conferred on the Department by this Act to make any regulations or order (except an order under section 149(8)), 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.
- (7) The power conferred on the Secretary of State by section 160 to make regulations is exercisable by statutory instrument; and subsections (2) to (4) and section 178(1) apply to those regulations as they apply to regulations made by the Department.
- (8) The power conferred on the Secretary of State by section 160 to make regulations shall if the Treasury so direct be exercisable only in conjunction with them.

178 Sub-delegation

- (1) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make regulations or an order (other than regulations and orders made under Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171) includes power to provide for a person to exercise a discretion in dealing with any matter.
- (2) Where any provision in Parts III to VI (except sections 22, 23, 39 to 41, 47, 62 to 64, 66 to 76, 78 to 82, 90, 97, 99 to 104 and 113), Chapter I of Part VII, Part VIII or IX or section 149 (except subsection (8)), 152, 155, 158 or 159 or any of sections 167 to 169 allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Department, or by it and the Department of Finance and Personnel acting jointly, any regulations made by virtue of that provision may provide—
- (a) for those matters to be dealt with by the Board in their discretion or to be determined in accordance with the exercise by the Board of a discretion vested in them by the regulations, and
 - (b) for the Board’s discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.
- (3) Regulations under sections 23(3), 59(2), 93(1), 100(8) and 140(5) may provide that the values there mentioned shall be calculated and verified or, in the case of regulations under section 100(8), that the percentage there mentioned shall be determined—
- (a) in such manner as may, in the particular case, be approved—
 - (i) by a prescribed person;
 - (ii) by a person with prescribed professional qualifications or experience;
 - or
 - (iii) by a person approved by the Department; or
 - (b) in accordance with guidance prepared by a prescribed body;
- and regulations under section 100(8) may also provide that such calculation and verification or, as the case may be, determination shall be—
- (i) in accordance with prescribed principles and requirements; or

- (ii) in accordance with principles determined by the person who performs the duties of calculation and verification.

179 Consultation with Social Security Advisory Committee

- (1) The Department may refer to the Social Security Advisory Committee (“the Committee”) for consideration and advice such questions relating to the operation of section 32(6) as the Department thinks fit (including questions as to the advisability of amending it).
- (2) Subject to subsection (3) and to section 150 of the Social Security Administration (Northern Ireland) Act 1992 (cases where consultation not required), where the Department proposes to make regulations under section 32(6) it shall refer the proposals, in the form of draft regulations or otherwise, to the Committee.
- (3) Subsection (2) does not apply to the regulations specified in paragraph 9 or 10 of Schedule 5 to the Social Security Administration (Northern Ireland) Act 1992.
- (4) The Committee shall consider any proposals referred to it by the Department under subsection (2) and shall make to the Department a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.
- (5) If, after receiving a report of the Committee, the Department lays before the Assembly any regulations which comprise the whole or part of any subject-matter of the proposals referred to the Committee, the Department shall lay with the regulations a copy of the Committee’s report and a statement showing—
 - (a) the extent (if any) to which the Department has in framing the regulations given effect to the Committee’s recommendations; and
 - (b) in so far as effect has not been given to them, the Department’s reasons why not.
- (6) In relation to regulations required to be made by the Department in conjunction with the Department of Finance and Personnel, any reference in this section to the Department shall be construed as a reference to the Department and the Department of Finance and Personnel.

180 Consultations about other regulations

- (1) The power of the Department to make regulations under section 158 shall be exercisable only after consultation with the Chief Registrar of Friendly Societies.
- (2) Before making any regulations under paragraph 7 of Schedule 1 the appropriate government department shall consult with such bodies concerned with employments of the class in question as appear to it fairly to represent the interests of the employers and earners in those employments.

181 Assembly, etc. control of regulations and orders

- (1) The regulations and orders to which this subsection applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations or order, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations or a new order) cease to have effect upon the expiration of a period of six months from that date unless at some time before

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- the expiration of that period the regulations have, or the order has, been approved by a resolution of the Assembly.
- (2) Subsection (1) applies to regulations made by the Department under section 60(1) and to orders made by it under section 149(8).
- (3) Subsection (1) does not apply to—
- (a) regulations under any provision mentioned in subsection (2) which are to be made for the purpose of consolidating regulations thereby revoked;
 - (b) regulations which, in so far as they are made under any provision mentioned in subsection (2), only replace provisions of previous regulations with new provisions to the same effect.
- (4) Subject to subsection (6), all regulations and orders made by the Department under this Act (other than regulations or orders to which subsection (1) applies and orders made under section 186) shall be subject to negative resolution.
- (5) This subsection applies to any regulations or order made under this Act which—
- (a) but for subsection (6), would be subject to negative resolution, and
 - (b) are or is contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.
- (6) Any regulations or order to which subsection (5) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (7) Subject to subsection (9), regulations made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This subsection applies to any regulations made under this Act which—
- (a) but for subsection (9), would be subject to annulment in pursuance of a resolution of either House of Parliament, and
 - (b) are contained in an instrument which is subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament.
- (9) Any regulations to which subsection (8) applies shall not be subject as mentioned in subsection (8)(a), but shall be subject to the procedure described in subsection (8)(b).
- (10) In this section “the confirmatory procedure” means the procedure described in subsection (1).