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## STATUTORY INSTRUMENTS

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# 1986 No. 1888

## The Social Security (Northern Ireland) Order 1986

### PART VIII

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY

##### *Miscellaneous*

*Arts. 67#70 rep. by 1992 c. 9*

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

*Para. (1) rep. by 1992 c.9*

(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.

*Arts. 72, 73 rep. by 1991 NI 17*

*Arts. 74, 75 rep. by 1992 c. 9*

*Art. 76 rep. by 1993 c. 49*

##### ***Amendments relating to forfeiture of benefits***

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 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.

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(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 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) and (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***

*Paras. (1), (2) rep. by 1993 c. 49*

*Paras. (3), (4) rep. by 1992 c. 9*

*Para. (5) rep. by 1990 NI 15*

*Para. (6) rep. by 1993 c. 49*

*Art. 80 rep. by 1993 c. 49*

### *Supplementary*

### ***Orders and regulations (general provisions)***

**81.—**(1) [F1 Article 71B(1) to (4) of the Pensions Order] (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.

*Para. (2) rep. by 1992 c. 9*

*Para. (3) rep. by 1993 c. 49*

[<sup>F1</sup>(4) Regulations and orders made by the Department under this Order, other than<sup>F2</sup> . . . orders under Article 1, shall be subject to negative resolution.]

*Paras. (5), (6) rep. by 1992 c. 9*

(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,

*Para. (8) rep. by 1993 c. 49*

<b>F1</b>	1992 c. 9
<b>F2</b>	1993 c. 49

### **Financial provision**

**82.**—(1) There shall be paid out of the Northern Ireland Fund—

*Sub#paras. (a), (b) rep. by 1993 c. 49*

*Sub#paras. (c), (d) rep. by 1992 c. 9*

*Para. (2) rep. by 1992 c. 9*

*Paras. (3), (4) rep. by 1993 c. 49*

*Para. (5) rep. by 1992 c. 9*

(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<sup>F3</sup> . . . .

[<sup>F4</sup>(6A) 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) to be the amount of the administrative expenses incurred by the Department in exercising its functions relating to—

(a) minimum contributions paid by it under Part II; and

(b) payments by it under Article 9.]

*Paras. (7)#(10) rep. by 1992 c. 9*

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

<b>F3</b>	1992 c. 9
<b>F4</b>	1993 NI 2

### **Article—83 Amendments and repeals**

#### **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

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by a provision of this Order during any period when the repeal or amendment is not wholly in operation.

[<sup>F5</sup>(1A) Without prejudice to any other powers conferred on it, the Department—

- (a) may, for the purpose of making provision with respect to persons falling within paragraph (1B), modify or revoke any regulations made under this Article if the Department considers it necessary or expedient to do so in consequence of, or otherwise in connection with, any statutory provisions or provisions of schemes, arrangements or other instruments coming into operation after the making of this Order; and
- (b) may, for the purpose of consolidation, revoke and re-enact, with any modifications which the Department considers necessary or desirable, any regulations under this Article.

(1B) The persons referred to in paragraph (1A)(a) are any persons—

- (a) to whom regulations under paragraph (1) apply; or
- (b) to whom regulations made under Part III relating to income support applied at any time before the making of the Social Security (Northern Ireland) Order 1989.]

(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 or 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.

(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.

**F5** 1989 NI 13

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 para. 36 repealed by [S.I. 2003/435 \(N.I.\) art. 49\(2\)](#)[Sch. 5](#) (Sch. 9 of this Order is an amending Schedule which is not available on [legislation.gov.uk](#))
- art.9 amended by [S.I. 1999/671 art.3\(1\)](#)[Sch.1 para.1](#)