



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART XIII

#### GENERAL

##### *Subordinate legislation*

#### **171 Regulations and orders - general.**

- (1) Subject to any specific provision of this Act, regulations and orders under this Act shall be made by the Department.
- (2) [<sup>F1</sup>Any power conferred by this Act on the Department to make regulations or orders] is exercisable by statutory rule for the purposes of the <sup>M1</sup>Statutory Rules (Northern Ireland) Order 1979.
- (3) Except in the case of an order under section 141(3) above and in so far as this Act otherwise provides, any power conferred by this Act to make regulations or an order may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
    - (iii) any such provision either unconditionally or subject to any specified condition;

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and where such a power 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; and powers to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (4) Without prejudice to any specific provision of this Act, any power conferred by this Act to make regulations or an order (other than the power conferred by section 141(3)) includes power to make thereby 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) Without prejudice to any specific provision of this Act, a power conferred by any provision of this Act except—
- (a) sections [<sup>F2</sup>25B(2)(a),] 30, 47(6) <sup>F3</sup>. . . and 141(3) and paragraph 3(9) of Schedule 7; and
  - (b) section 121(1) in relation to the definition of “payments by way of occupational or personal pension”; and
  - (c) Part XI,
- to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (6) Any power conferred by this Act to make regulations relating to housing benefit shall include power to make different provision for different areas.
- [<sup>F4</sup>(6A) Regulations under Part VII of this Act relating to housing benefit administered by the Department of the Environment under section 126(3)(b) of the Administration Act shall not be made without the consent of that Department.]
- (7) Any power of the Department under any provision of this Act, except the provisions mentioned in subsection (5)(a) and (b) above and Part IX, 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.
- (8) Any power under any of sections 116 to 119 above to modify provisions of this Act or the Administration Act extends also to modifying so much of any other provision of this Act or that Act as re-enacts provisions of the 1975 Act which replaced provisions of the National Insurance (Industrial Injuries) Measures (Northern Ireland) 1966 to 1974.
- (9) A power to make regulations under any of sections 116 to 119 above shall be exercisable in relation to any enactment passed or made after this Act which is directed to be construed as one with this Act, but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.
- [<sup>F5</sup>(10) Any power of the Secretary of State, the Treasury or the Commissioners of Inland Revenue under this Act to make regulations or orders is exercisable by statutory instrument, and subsections (3) to (5) above apply to those regulations or orders as they apply to regulations or orders made by the Department.]
- (11) Any power of the Secretary of State [<sup>F6</sup>to make an order under section 155A(1) above or regulations under section 116, 155A(4), 157 or 163 above] shall if the Treasury so direct be exercisable only in conjunction with them.

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- (12) Any reference in this section or section 172 below to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed or made after this Act which is directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.

#### Textual Amendments

- F1** Words in s. 171(2) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 28(2)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F2** Words in s. 171(5) inserted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 36**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F3** Words in s. 171(5) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), **Sch. 1 Pt. I para. 36**, **Sch. 2**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F4** S. 171(6A) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), **art. 3(3)(4)**
- F5** S. 171(10) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 28(3)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F6** Words in s. 171(11) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 28(4)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

#### Modifications etc. (not altering text)

- C1** S. 171(1) modified (5.10.1999) by 1999 c. 10, ss. 2(4), 20(2), **Sch. 2 para. 22(a)**
- C2** S. 171(2) applied (1.1.2000 for specified purposes and 3.4.2000 otherwise) by 1999 c. 33, **s. 115(8)**; S.I. 1999/3190, art. 2, **Sch.**; S.I. 2000/464, art. 2, **Sch. 1**
- C3** S. 171(2) modified (5.10.1999) by 1999 c. 10, ss. 2(4), 20(2), **Sch. 2 para. 29**
- C4** S. 171(3)(4) applied (23.3.1994) by S.I. 1994/766 (N.I. 5), **arts. 1(2), 4(2)** (with art. 4(6))  
S. 171(3)(4) applied (21.11.1994) by S.I. 1994/1898 (N.I. 12), **arts. 6(11), 14(3)**; S.R. 1994/450, art. 2(a), **Sch. Pt. I**
- C5** S. 171(3)-(5) applied (1.1.2006) by Children (Leaving Care) Act (Northern Ireland) 2002 (c. 11 (N.I.)), **ss. 6(5), 9**
- C6** S. 171(6A): transfer of functions (1.12.1999) by S.R. 1999/481, art. 6(b), **Sch. 4 Pt. II**

#### Marginal Citations

- M1** S.I. 1979/1573 (N.I. 12).

## 172 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 the expiration of that period the regulations have, or the order has, been approved by a resolution of the Assembly.
- (2) Subsection (1) above applies to—
- regulations made by the Department under section <sup>F7</sup>. . . [<sup>F8</sup>19(6)], 28(3), [<sup>F9</sup>30DD(5)(b) or (c)], . . . 104(3), <sup>F7</sup>. . . [<sup>F10</sup>or 141] above;
  - regulations prescribing payments for the purposes of the definition of “payments by way of occupational or personal pension” in section 121(1) above;

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- (c) an order made by the Department under section [<sup>F11</sup>25B(1),] 28(2), [<sup>F12</sup>35A(7),] . . . 144(3)(b) [<sup>F13</sup>or 153(2)]. . . [<sup>F14</sup> or [<sup>F15</sup>155A(1)]] above.
- (3) Subsection (1) above does not apply to—
  - <sup>F16</sup>(a) . . . . .
  - (b) regulations under any provision mentioned in subsection (2)(a) above <sup>F17</sup>. . . which are to be made for the purpose of consolidating regulations thereby revoked;
  - (c) regulations which, in so far as they are made under any provision mentioned in subsection (2)(a) above (other than section 141 <sup>F18</sup>. . .), only replace provisions of previous regulations with new provisions to the same effect.
- (4) Subject to subsection (7) below, all regulations and orders made by the Department under this Act, other than regulations or orders to which subsection (1) above applies, shall be subject to negative resolution.
- (5) Section 41(3) of the <sup>M2</sup>Interpretation Act (Northern Ireland) 1954 (laying statutory instruments or statutory documents before the Assembly) shall apply in relation to any instrument or document which by virtue of any provision of this Act is required to be laid before the Assembly as if it were a statutory instrument or statutory document within the meaning of that Act.
- (6) This subsection applies to any regulations or order made under this Act which—
  - (a) but for subsection (7) below, 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.
- (7) Any regulations or order to which subsection (6) above applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- <sup>F19</sup>(8) . . . . .
- (9) [<sup>F20</sup>Subject to subsections (11), (11A) and (11B) below,] regulations made under this Act by the Secretary of State [<sup>F21</sup>, the Treasury or the Commissioners of Inland Revenue] shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) This subsection applies to any regulations made under this Act which—
  - (a) but for subsection (11) below, would be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) are, or is, 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.
- (11) Any regulations to which subsection (9) above applies shall not be subject as mentioned in paragraph (a) of that subsection, but shall be subject to the procedure described in paragraph (b) of that subsection.
- <sup>F22</sup>(11A) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of section 11(3), 18, 19(4) and (5), 117 or 118 or an order under section 155A shall not be made unless a draft of the instrument has been laid before Parliament and been approved by resolution of each House of Parliament.
- (11B) Subsection (11A) above does not apply to a statutory instrument by reason only that it contains regulations under section 117 which the instrument states are made for

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the purpose of making provision consequential on provision under section 129 of the Administration Act.]

(12) In this section—

“the Assembly” means the Northern Ireland Assembly;

“the confirmatory procedure” means the procedure described in subsection (1) above;

“subject to negative resolution” has the meaning assigned by section 41(6) of the<sup>M3</sup> Interpretation Act (Northern Ireland) 1954 (but as if the regulations or orders in question were statutory instruments within the meaning of that Act).

#### Textual Amendments

- F7** Words in s. 172(2)(a) repealed (1.4.1999) by S.I. 1999/671, arts. 4, 24(3), Sch. 3 para. 29(2)(b), **Sch. 9 Pt. I** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F8** Words in s. 172(2)(a) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 29(2)(a)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F9** Words in s. 172(2)(a) inserted (3.11.2000) by S.I. 1999/3147 (N.I. 11), art. 67, **Sch. 8 para. 24**; S.R. 2000/332, **art. 2(6)**
- F10** Words in s. 172(2)(a) substituted (6.4.1995) by S.R. 1995/69, **art. 6(1)(a)(i)**
- F11** Words in s. 172(2)(c) inserted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 37(b)**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F12** Words in s. 172(2)(c) inserted (12.1.2000 and 2.4.2000 for specified purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), art. 67, **Sch. 8 Pt. VI para. 30**; S.R. 1999/494, **art. 2(1)(b)**
- F13** Words in s. 172(2)(c) substituted (11.11.1999) by 1999 c. 30, ss. 81, 89(4)(d), **Sch. 11 para. 11**
- F14** Words in s. 172(2)(c) substituted (23.3.1994) by S.I. 1994/766 (N.I. 5), **arts. 1(2), 5(2)** (with art. 4(6))
- F15** Words in s. 172(2)(c) ceased to have effect (24.3.1999 for specified purposes and 1.4.1999 otherwise) by virtue of S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 18** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F16** S. 172(3)(a) repealed (1.4.1999) by S.I. 1999/671, arts. 4, 24(3), Sch. 3 para. 29(3), **Sch. 9 Pt. I** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F17** Words in s. 172(3)(b) omitted (6.4.1995) by virtue of S.R. 1995/69, **art. 6(1)(a)(iii)**
- F18** Words in s. 172(3)(c) omitted (6.4.1995) by virtue of S.R. 1995/69, **art. 6(1)(a)(iv)**
- F19** S. 172(8) repealed (2.12.1999) by S.I. 1999/663, arts. 1(2), 2(2), **Sch. 2**; S.I. 1999/3208, **art. 2**
- F20** Words in s. 172(9) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 29(4)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F21** Words in s. 172(9) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 29(4)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F22** S. 172(11A)(11B) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 29(5)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

#### Modifications etc. (not altering text)

- C7** S. 172(4) applied (1.1.2000 for specified purposes and 3.4.2000 otherwise) by 1999 c. 33, **s. 115(8)**; S.I. 1999/3190, art. 2, **Sch.**; S.I. 2000/464, art. 2, **Sch. 1**
- C8** S. 172(9) modified (5.10.1999) by 1999 c. 10, ss. 2(4), 20(2), **Sch. 2 para. 20(e)**

#### Marginal Citations

- M2** 1954 c. 33 (N.I.).
- M3** 1954 c. 33 (N.I.).

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