

EXPLANATORY MEMORANDUM TO
THE NORTHERN IRELAND ACT 1998 (MODIFICATION) ORDER 2006

2006 No. 2659

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order updates the list of social security and pensions legislation to which the reciprocal consultation and co-ordination provisions of the Northern Ireland Act 1998 apply.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 87 of the Northern Ireland Act 1998 requires the Secretary of State for Work and Pensions and the Minister with responsibility for social security in Northern Ireland to consult each other with the aim of ensuring that, to the extent agreed by them, the relevant legislation achieves single systems of social security, child support and pensions for the UK. It also provides for arrangements to co-ordinate the operation of the relevant Great Britain and Northern Ireland legislation. Section 87(6) lists the relevant legislation.. Section 87(7) gives a power for this list to be modified (so that the list can be updated to include the relevant legislation at any particular time). A number of orders have previously been made under this power to reflect the introduction of new social security, child support and pensions legislation.

4.2 This Order now uses this power to add the most recent social security and pensions legislation to which the consultation and co-ordination provisions should apply. These are the Age-Related Payments Act 2004 and the Pensions Act 2004 and the corresponding Northern Ireland legislation - the Age-Related Payments (Northern Ireland) Order 2004 and the Pensions (Northern Ireland) Order 2005.

4.3 Whilst the Northern Ireland Assembly is suspended the administrative arrangements for dealing with social security etc matters have returned to the position pre-devolution. The functions formerly carried out by the Northern Ireland Assembly Minister are now the responsibility of the Department for Social Development (DSD) and are discharged subject to the direction and control of the Secretary of State for Northern Ireland.

5. Extent

5.1 This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary (Lords) Lord Hunt of Kings Heath OBE has made the following statement regarding Human Rights:

In my view the provisions of the Northern Ireland Act 1998 (Modification) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 Northern Ireland has had a separate social security scheme since 1948 (and a separate National Insurance Fund since 1911). Under the devolution arrangements, the Northern Ireland Act 1998 devolved legislative competence for social security to the NI Assembly, but reserved legislative competence for National Insurance Contributions to the UK Parliament. In practice, however, the GB and NI social security schemes are maintained in close parity. Although it is within the legislative competence of the Assembly, if it wished, to introduce a social security scheme which differed from the GB scheme, there is an expectation that parity will be maintained between the two systems. This expectation of parity is reflected in the wording of section 87 of the Northern Ireland Act 1998.

7.2 The principle of parity is given practical effect through transfers between the GB and NI National Insurance Funds to maintain contributions and benefits - such as retirement pensions - at common levels throughout the UK. Section 87 provides for the co-ordination of the operation of the Great Britain and Northern Ireland legislation, and therefore the list of legislation in section 87(6) has to be updated on a regular basis to embrace ongoing changes in the fields of social security, child support and pensions. This Order follows agreement between the Department for Work and Pensions, the Northern Ireland Office and the Department for Social Development.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is broadly neutral. The purpose of this instrument is to ensure that the Age-Related Payments Act 2004, the Pensions Act 2004 and their Northern Ireland equivalents are added to the list of legislation in s87(6), in order to bring them within the scope of the consultation and co-ordination (reciprocal) arrangements. This is a technical matter and not controversial

9. Contact

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