



# Social Security Act (Northern Ireland) 2002

CHAPTER 10

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## Social Security Act (Northern Ireland) 2002

### 2002 CHAPTER 10

An Act to amend the law relating to statutory maternity pay; to amend the law relating to maternity allowance; to make provision for work-focused interviews for partners of benefit claimants; to make provision about the use of information for, or relating to, employment and training; to amend the Deregulation and Contracting Out (Northern Ireland) Order 1996; and for connected purposes.

[17th October 2002]

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

#### **Maternity pay period**

1. In section 161(1) of the Contributions and Benefits Act (the maternity pay period), for “18 weeks” there is substituted “26 weeks”.

#### **Rate of statutory maternity pay**

2. For section 162 of the Contributions and Benefits Act there is substituted—

##### **“Rate of statutory maternity pay**

162.—(1) Statutory maternity pay shall be payable to a woman—

- (a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and
- (b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the maternity pay period.

(2) The earnings-related rate is a weekly rate equivalent to 90 per cent. of a woman’s normal weekly earnings for the period of 8 weeks immediately preceding the 14th week before the expected week of confinement.

(3) The weekly rate prescribed under subsection (1)(b) above must not be less than the weekly rate of statutory sick pay for the time being specified in section 153(1) above or, if two or more such rates are for the time being so specified, the higher or highest of those rates.”.

### **Entitlement to statutory maternity pay**

**3.** In section 160 of the Contributions and Benefits Act (statutory maternity pay - entitlement and liability to pay)—

(a) in subsection (2)(a), the words “, wholly or partly because of pregnancy or confinement” shall cease to have effect;

(b) for subsection (4) there is substituted—

“(4) A woman shall be entitled to payments of statutory maternity pay only if—

(a) she gives the person who will be liable to pay it notice of the date from which she expects his liability to pay her statutory maternity pay to begin; and

(b) the notice is given at least 28 days before that date or, if that is not reasonably practicable, as soon as is reasonably practicable.”;

(c) in paragraph (e) of subsection (9), for sub-paragraphs (i) to (iii) there is substituted “in such cases as may be prescribed”; and

(d) after that paragraph there is inserted—

“(ea) provide that subsection (4) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;”.

### **Rate of maternity allowance**

**4.—**(1) In section 35A of the Contributions and Benefits Act (appropriate weekly rate of maternity allowance)—

(a) for subsections (1) to (3) there is substituted—

“(1) For the purposes of section 35(1) above the appropriate weekly rate is (subject to subsection (5A) below) whichever is the lower rate of—

(a) a weekly rate equivalent to 90 per cent. of the woman’s average weekly earnings; and

(b) the weekly rate for the time being prescribed under section 162(1)(b) below.”;

(b) in paragraph (c)(i) of subsection (5), for “the lower earnings limit” there is substituted “an amount 90 per cent. of which is equal to the weekly rate prescribed under section 162(1)(b) below that is”; and

(c) after that subsection there is inserted—

“(5A) Where subsection (5B) below applies the appropriate weekly rate is the weekly rate for the time being prescribed under section 162(1)(b) below.

(5B) This subsection applies where a woman is treated by virtue of regulations under sub-paragraph (i) of paragraph (c) of subsection (5)

above as having received a payment in respect of each week in the specified period equal to the amount mentioned in that sub-paragraph.”.

(2) In relation to any time before the coming into operation of section 2, the reference to section 162(1)(b) of the Contributions and Benefits Act in section 35A(5)(c)(i) of that Act (as amended by subsection (1)(b)) is a reference to section 162(3) of that Act.

### **Work-focused interviews for partners**

5. After section 2A of the Administration Act (claim or full entitlement to certain benefits conditional on work-focused interview), there is inserted—

#### **“Full entitlement to certain benefits conditional on work-focused interview for partner**

2AA.—(1) Regulations may make provision for or in connection with imposing, at a time when—

- (a) a person (“the claimant”) who—
  - (i) is under the age of 60, and
  - (ii) has a partner who is also under that age,
    - is entitled to a benefit to which this section applies at a higher rate referable to his partner; and
- (b) prescribed circumstances exist,

a requirement for the partner to take part in a work-focused interview as a condition of the benefit continuing to be payable to the claimant at that rate.

(2) The benefits to which this section applies are—

- (a) income support;
- (b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance;
- (c) incapacity benefit;
- (d) severe disablement allowance; and
- (e) invalid care allowance.

(3) For the purposes of this section a benefit is payable to a person at a higher rate referable to his partner if the amount that is payable in his case—

- (a) is more than it would be if the person concerned was not a member of a couple; or
- (b) includes an increase of benefit for his partner as an adult dependant of his.

(4) Regulations under this section may, in particular, make provision—

- (a) for securing, where the partner of the claimant would otherwise be required to take part in work-focused interviews relating to two or more benefits—
  - (i) that the partner is required instead to take part in only one such interview, and

- (ii) that the interview is capable of counting for the purposes of all those benefits;
  - (b) in a case where the claimant has more than one partner, for determining which of those partners is required to take part in the work-focused interview or requiring each of them to take part in such an interview;
  - (c) for determining the persons by whom work-focused interviews are to be conducted;
  - (d) conferring power on such persons or the designated authority to determine when and where work-focused interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
  - (e) prescribing the circumstances in which partners attending work-focused interviews are to be regarded as having or not having taken part in them;
  - (f) for securing that if—
    - (i) a partner who has been notified of a requirement to take part in a work-focused interview fails to take part in it, and
    - (ii) it is not shown (by him or by the claimant), within the prescribed period, that he had good cause for that failure, the amount payable to the claimant in respect of the benefit in relation to which the requirement applied is to be reduced by the specified amount until the specified time;
  - (g) prescribing—
    - (i) matters which are or are not to be taken into account in determining whether a partner does or does not have good cause for any failure to comply with the regulations, or
    - (ii) circumstances in which a partner is or is not to be regarded as having or not having good cause for any such failure.
- (5) Regulations under this section may, in relation to a reduction under subsection (4)(f) above, provide—
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
  - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
  - (c) where the claimant is entitled to two or more benefits in relation to each of which a requirement to take part in a work-focused interview applied, for determining the extent to, and the order in, which those benefits are to be reduced in order to give effect to the reduction required in his case.
- (6) Regulations under this section may provide that any requirement to take part in a work-focused interview that would otherwise apply to a partner by virtue of such regulations—

- (a) is, in any prescribed circumstances, either not to apply or not to apply until the specified time;
- (b) is not to apply if the designated authority determines that such an interview would not be of assistance to him or appropriate in the circumstances;
- (c) is not to apply until such time as the designated authority determines (if that authority determines that such an interview would not be of assistance to him or appropriate in the circumstances until that time),

and the regulations may make provision for treating a partner to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

(7) In this section—

“couple” means a married or unmarried couple (within the meaning of Part VII of the Contributions and Benefits Act);

“designated authority” means such of the following as may be specified—

- (a) a Northern Ireland department;
- (b) a person providing services to a Northern Ireland department;
- (c) any other body established by or under a statutory provision;
- (d) a person providing services to, or authorised to exercise any function of, any such body;

“partner” means a person who is a member of the same couple as the claimant;

“specified” means prescribed by or determined in accordance with regulations;

“work-focused interview” has the same meaning as in section 2A above.”.

### **Use of information for, or relating to, employment and training**

**6.—**(1) The Administration Act is amended as follows.

(2) In section 116C of that Act (supply of information to the Housing Executive)—

- (a) in subsection (1), after “social security” there is inserted “, child support, or employment or training”; and
- (b) subsection (8) shall cease to have effect.

(3) In section 116D of that Act (supply of information by the Housing Executive), in subsection (1), after “social security” there is added “, child support, or employment or training”.

(4) In section 167(1) of that Act (interpretation), in the definition of “the Department”, for paragraph (b) there is substituted—

“(b) in sections 115D, 115E, 116, 116ZA, 116C and 116D also includes the Department for Employment and Learning;”.

**Amendment of the Deregulation and Contracting Out (Northern Ireland) Order 1996**

7.—(1) Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) (social security: amendments following certain orders) is amended as follows.

(2) In paragraph (1), for “Chapter I of Part I or Part II of the Deregulation and Contracting Out Act 1994” there is substituted “Part II of the Deregulation and Contracting Out Act 1994 or section 1 of the Regulatory Reform Act 2001”.

(3) In paragraph (2), after “the Welfare Reform and Pensions Act 1999” there is inserted—

“the Child Support, Pensions and Social Security Act 2000;  
the Social Security Fraud Act 2001.”.

(4) For paragraph (4) there is substituted—

“(4) An order under this Article shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the order, but shall (without prejudice to the validity of anything done thereunder or to the making of 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 order has been approved by a resolution of the Assembly.”.

**Minor and consequential amendments and repeals**

8.—(1) Schedule 1 (which makes minor and consequential amendments) shall have effect.

(2) The statutory provisions mentioned in Schedule 2 are hereby repealed to the extent specified in the second column of that Schedule.

**Commencement**

9.—(1) Sections 1 to 6 and 8 shall come into operation on such day or days as may be appointed by order made by the Department.

(2) An order under subsection (1) may contain such transitional provisions and savings as the Department considers necessary or expedient in connection with the coming into operation of any of the provisions of this Act.

(3) The Department may by regulations subject to negative resolution make such transitional provisions and savings as it considers necessary or expedient for the purposes of or in connection with—

- (a) the coming into operation of section 2 or 4, or Schedule 1 so far as relating to any amendment made in consequence of either of those sections; or
- (b) the operation of any statutory provision amended by any of those provisions during any period when the amendment is not wholly in operation.

**Short title and interpretation**

**10.**—(1) This Act may be cited as the Social Security Act (Northern Ireland) 2002.

(2) In this Act—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992 (c. 8);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“the Department” means the Department for Social Development;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

## SCHEDULES

Section 8(1).

## SCHEDULE 1

## MINOR AND CONSEQUENTIAL AMENDMENTS

*Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

1. The Contributions and Benefits Act is amended as follows.
2. In section 35 (state maternity allowance)—
  - (a) in subsection (1), for paragraph (c) there is substituted—
 

“(c) her average weekly earnings (within the meaning of section 35A below) are not less than the maternity allowance threshold for the tax year in which the beginning of the period of 66 weeks mentioned in paragraph (b) above falls;”;
  - (b) in subsection (3)(c), for “above or in section 35A(2) or (3) below” there is substituted “or (c) above”; and
  - (c) after subsection (6) there is inserted—
 

“(6A) In this section “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (6B) below) £30.

(6B) Whenever the Secretary of State makes an order under section 35(6B) of the Great Britain Contributions and Benefits Act (increase of maternity allowance threshold), the Department may make a corresponding order for Northern Ireland.”.
3. In section 35A (appropriate weekly rate of maternity allowance), for subsections (6) and (7) there is substituted—
 

“(6) In this section—

“the maternity allowance threshold” has the same meaning as in section 35 above;

“specified” means prescribed by or determined in accordance with regulations.”.
4. In section 160 (statutory maternity pay - entitlement and liability to pay), in subsection (10)(b), for “section 162(2),” there is substituted “section 162(1) and (2)”.

*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

5. The Administration Act is amended as follows.
6. In section 2B (supplementary provisions relating to work-focused interviews)—
  - (a) in subsection (1), after “relevant decisions” there is inserted “made under regulations under section 2A or 2AA above”;

- (b) in subsection (2), for the words from “is a” to “2A above” there is substituted “, in relation to regulations under section 2A above, is a decision”;
- (c) after subsection (2) there is inserted—
- “(2A) For the purposes of this section a “relevant decision”, in relation to regulations under section 2AA above, is a decision that—
- (a) the partner of a person entitled to a benefit has failed to comply with a requirement to take part in an interview which applied to the partner by virtue of the regulations, or
- (b) it has not been shown, within the prescribed period mentioned in section 2AA(4)(f)(ii) above, that the partner had good cause for such a failure.”; and
- (d) in subsections (3), (5)(a) and (9), after “section 2A” there is inserted “or 2AA”.
7. In section 2C (optional work-focused interviews), in subsection (2)—
- (a) for the words from “persons” (in the first place where it occurs) to the end of paragraph (b) there is substituted “—
- (a) persons making claims for or entitled to any of the benefits listed in section 2A(2) above or any prescribed benefit; and
- (b) partners of persons entitled to any of the benefits listed in section 2AA(2) above or any prescribed benefit.”; and
- (b) after “section 2A” there is inserted “or 2AA”.
8. In section 5A (sharing of functions as regards certain claims and information)—
- (a) in subsection (2), after “social security” (in each place) there is inserted “or work”; and
- (b) in subsection (6)(d), for “social security matters” there is substituted “social security or work matters” and after “war pensions” there is inserted “, or employment or training”.
9. In section 166 (Assembly, etc. control of orders and regulations), in subsection (2), after paragraph (aa) there is inserted—
- “(aaa) to the first regulations to be made under section 2AA above;”.

*Social Security (Northern Ireland) Order 1998 (NI 10)*

10. In paragraph 5A of Schedule 2 to the Social Security (Northern Ireland) Order 1998 (decisions against which no appeal lies), after “section 2A” there is inserted “or 2AA”.

*Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)*

11. In Article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (supply of information for certain purposes), in paragraph (3), after subparagraph (a) there is inserted—
- “(aa) section 2AA of the Administration Act.”.

Section 8(2).

## SCHEDULE 2

## REPEALS

Short Title	Extent of repeal
The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).	In section 160(2)(a), the words “, wholly or partly because of pregnancy or confinement”.
The Social Security Administration (Northern Ireland) Act 1992 (c. 8).	Section 116C(8).
The Social Security (Northern Ireland) Order 1998 (NI 10).	In Schedule 6, paragraph 69.
The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11).	Article 50(2)(b).

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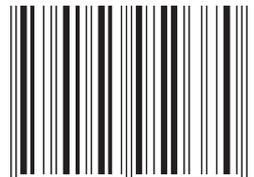
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ISBN 0-10-595037-8



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