



Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002

CHAPTER 5

£2.50



Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002

CHAPTER 5

CONTENTS

1. Preserved rights: transfer to Department of responsibilities as to accommodation
2. Preserved rights: disclosure of information
3. Preserved rights: alignment of social security benefits
4. Preserved rights: repeals
5. Interpretation
6. Orders and regulations
7. Commencement
8. Short title

Schedule

Repeals



Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002

2002 CHAPTER 5

An Act to make provision in relation to persons in residential accommodation with preserved rights under the Income Support (General) Regulations (Northern Ireland) 1987; and for connected purposes. [26th March 2002]

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

Preserved rights: transfer to Department of responsibilities as to accommodation

1.—(1) Article 36A of the 1972 Order (which prevents the Department providing residential accommodation for persons who were in such accommodation on 31st March 1993) shall cease to have effect on the appointed day.

(2) For the purposes of this section a “qualifying person” is a person to whom Article 36A(1) of that Order applied immediately before the appointed day.

(3) Where on or after the appointed day a qualifying person is provided by the Department with any personal social services in respect of his accommodation, his existing arrangements shall, by virtue of this subsection, terminate on the date as from which he is provided with those services.

(4) Where any such person is not provided with any such services as from the appointed day, any liability of his to make any payment under his existing arrangements in respect of any period (or part of a period) falling within the period beginning with the appointed day and ending with—

(a) the date as from which he is provided with any such services, or

- (b) the date on which he notifies (or is in accordance with regulations to be treated as notifying) the Department that he does not wish to be provided with any such services,

shall instead be a liability of the Department.

(5) However the Department may, in respect of any payment made by it in pursuance of subsection (4), recover from the person such amount (if any) as may be prescribed; and any such amount shall be so recoverable summarily as a civil debt.

(6) Subsections (3) to (5) do not apply, to such extent as may be prescribed, in relation to any person falling within any prescribed description of persons.

(7) Regulations may—

- (a) prescribe the circumstances in which persons are to be treated as ordinarily resident in any premises for the purposes of this section;
- (b) for the purpose of prescribing any such amount as is mentioned in subsection (5), provide for any provision made by or under Article 36 of the 1972 Order to apply with or without modifications.

(8) In this section “existing arrangements”, in relation to a person, means the arrangements for the provision of accommodation in the relevant premises in question, together with any arrangements for the provision of any services or facilities in connection with that accommodation.

Preserved rights: disclosure of information

2.—(1) For the purposes of this section a “claimant” is—

- (a) in relation to any time before the appointed day, a person who is ordinarily resident in relevant premises and has a preserved right by virtue of which enhanced payments are being made to or in respect of him by way of income support or jobseeker’s allowance; or
- (b) in relation to any later time, a person who fell within paragraph (a) immediately before that day.

(2) Any information—

- (a) held by, or by a person providing services to, the Department for Social Development about a claimant, and
- (b) relating to income support or jobseeker’s allowance,

may be supplied, for qualifying purposes, to the Department or to any person providing services to, or authorised to exercise functions of, the Department.

(3) Where information relating to a claimant is supplied to the Department or any person (“the recipient”) in accordance with subsection (2), the information may be supplied by the recipient, for qualifying purposes, to any person providing services to, or authorised to exercise functions of, the Department.

(4) In subsections (2) and (3) “qualifying purposes”, in relation to information relating to a claimant, means—

- (a) purposes connected with the performance of functions under section 1 in relation to the claimant; or

- (b) other purposes connected with the termination of his preserved rights in consequence of section 3; or
- (c) (in subsection(2)) any further supply of the information under subsection (3).

(5) Where information relating to a particular person is supplied to the Department or any person in accordance with subsection (2) or (3), section 117 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (unauthorised disclosure of information relating to particular persons) shall apply in relation to the disclosure of the information by—

- (a) any recipient of the information (other than the Department) or any officer or employee of such a recipient, or
- (b) any officer or employee of the Department,

without lawful authority (within the meaning of that section) as it applies to any disclosure of information to which subsection (1) of that section applies.

Preserved rights: alignment of social security benefits

3. The Department for Social Development shall so exercise its powers under—

- (a) section 131(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (applicable amount in relation to income-related benefits), and
- (b) Article 6(5) of the Jobseekers (Northern Ireland) Order 1995 (NI 15) (amount payable by way of jobseeker's allowance),

as to secure that any special provision made in exercise of those powers as respects income support or jobseeker's allowance payable to or in respect of persons who have preserved rights ceases to have effect on the appointed day.

Preserved rights: repeals

4. The statutory provisions mentioned in the Schedule are repealed to the extent specified in column 2 of the Schedule.

Interpretation

5.—(1) In this Act—

- “the appointed day” means the day appointed under section 7 for the coming into operation of section 1(1);
- “the Department” means the Department of Health, Social Services and Public Safety;
- “ordinarily resident” shall be construed in accordance with regulations under section 1(7)(a);
- "prescribed" means prescribed by regulations;
- “preserved right” means a preserved right within the meaning of the Income Support (General) Regulations (Northern Ireland) 1987 (SR 1987/459);
- "regulations" means regulations made by the Department;
- “relevant premises” means premises listed in Article 36A(1) of the 1972 Order; and

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

(2) In this Act any reference (however expressed) to services provided by the Department includes services—

- (a) which the Department arranges to provide; or
- (b) the provision of which the Department secures.

(3) Except where any provision of this Act otherwise provides, any word or expression to which a meaning is assigned by Article 2(2) of the 1972 Order has the same meaning in this Act as in that Order.

Orders and regulations

6.—(1) The Department may by order make—

- (a) any supplementary, incidental or consequential provision,
- (b) any transitory, transitional or saving provision,

which it considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

(2) The provision which may be made under subsection (1) includes provision amending or repealing any other statutory provision, instrument or document.

(3) Subject to subsection (4), any regulations or orders under this Act shall be subject to negative resolution.

(4) Subsection (3) does not apply to an order under section 7.

(5) Regulations and orders under this Act may contain—

- (a) any supplementary, incidental or consequential provision,
- (b) any transitory, transitional or saving provision,
- (c) any provision for a person to exercise a discretion in dealing with any matter,

which the Department considers necessary or expedient.

Commencement

7. Sections 1 and 4 (with the Schedule) come into operation on such day or days as the Department may by order appoint.

Short title

8. This Act may be cited as the Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002.

SCHEDULE

Section 4.

REPEALS

Short Title	Extent of repeal
The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).	In Article 15(5) "36A". In Article 36(1) the words "and Article 36A". Article 36A.
The Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1).	Article 26.
The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).	Section 131(3) and (4).

© Crown copyright 2002

Printed and published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office, being the Government Printer for Northern Ireland and the officer appointed to print the Acts of the Northern Ireland Assembly



Published by The Stationery Office Limited
and available from:

The Publications Centre

(Mail, telephone and fax orders only)
PO Box 276, London SW8 5DT
General enquiries 0870 600 55 22
Order through the Parliamentary Hotline *Lo-Call* 0845 7 023474
Fax orders 0870 600 5533
Email orders bookorders@theso.co.uk

The Stationery Office Bookshops

123 Kingsway, London WC2B 6PQ
020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
0117 926 4306 Fax 0117 929 4515
9-21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop
18-19 High Street, Cardiff CF1 2BZ
029 2039 5548 Fax 029 2038 4347
71 Lothian Road, Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop

12 Bridge Street, Parliament Square
London SW1A 2JX
Telephone orders 020 7219 3890
General enquires 020 7219 3890
Fax orders 020 7219 3866

Accredited Agents

(See Yellow Pages)
and through good booksellers

ISBN 0-10-595031-9



9 780105 95031