

Social Security (Terminal Illness) Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Social Security (Terminal Illness) Bill would be within the legislative competence of the Northern Ireland Assembly.”

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TO

Provide that special social security rules which apply where life expectancy is 6 months or less are instead to apply where life expectancy is 12 months or less.

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

Special rules to apply where death expected within 12 months

1.—(1) In the provisions listed in subsection (2) (provisions related to special rules which apply where death can reasonably be expected within 6 months), for “6” substitute “12”.

5 (2) The provisions are—

- (a) section 66(2)(a) of the 1992 Act (attendance allowance and, by virtue of sections 72(5) and 73(12), also disability living allowance),
- (b) Article 87(4) of the Welfare Reform (Northern Ireland) Order 2015 (personal independence payment),
- 10 (c) the definition of “terminally ill” in each of the following—
 - (i) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008,
 - (ii) regulation 2(1) of the Universal Credit Regulations (Northern Ireland) 2016,
 - 15 (iii) regulation 2 of the Employment and Support Allowance Regulations (Northern Ireland) 2016, and
 - (iv) regulation 2(1) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016, and
 - 20 (d) the second sentence of section 30B(4) of the 1992 Act (incapacity benefit etc).

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(3) For each of sections 72(2)(b)(ii) and 73(9)(b)(ii) of the 1992 Act (care and mobility components of disability living allowance: person expected to die within 6 months must be likely to satisfy an entitlement condition until death) substitute—

5 “(ii) if expected to die within the period of 12 months beginning with that date, either the period of 6 months beginning with that date or the period beginning with that date and ending at death.”.

(4) In consequence of subsection (3), the 1992 Act is amended as follows—

10 (a) in each of sections 72(4)(a) and 73(11)(a), for “that mentioned in paragraph (b)” substitute “(as the case may be) the period mentioned in paragraph (b)(i), or a period mentioned in paragraph (b)(ii),”.

 (b) in section 72(4)(b), for “those periods” substitute “the period mentioned in paragraph (a) of that subsection and (as the case may be) the period mentioned in paragraph (b)(i), or a period mentioned in paragraph (b)(ii), of that subsection”.

15 (c) in section 73(12)(b), for ““the period mentioned in subsection (9)(b)” substitute ““(as the case may be) the period mentioned in paragraph (b)(i), or a period mentioned in paragraph (b)(ii), of subsection (9)”, and

20 (d) in section 74(1), for “the periods mentioned in those paragraphs” substitute “the period mentioned in paragraph (a) of that subsection and (as the case may be) the period mentioned in paragraph (b)(i), or a period mentioned in paragraph (b)(ii), of that subsection”.

 (5) In regulation 1(2) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992, in the definition of “terminally ill”, after “section 66(2)” insert “(as amended by the Social Security (Terminal Illness) Act (Northern Ireland) 2022)”.

 (6) In regulation 1(2) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992, in the definition of “terminally ill”, for “same meaning as in section 35(2C) of the Act” substitute “meaning given by section 66(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992”.

(7) An amendment made by this section does not prevent or restrict the exercise of any power to amend or revoke the provision amended.

35 (8) An amendment made by subsections (1) and (2) does not apply for the purposes of—

 (a) regulation 4ZE of the Individual Savings Account Regulations 1998, or

 (b) regulation 18A of the Child Trust Funds Regulations 2004.

(9) In this section “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

40 **Consequential provision**

2.—(1) The Department for Communities may by regulations make provision that is consequential on any provision made by this Act.

(2) Regulations under this section may—

 (a) amend, repeal, revoke or otherwise modify a statutory provision;

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(b) include transitional, transitory or saving provision in connection with the coming into operation of provision made by the regulations.

(3) Regulations under this section are subject to negative resolution, except where subsection (4) applies to them.

5 (4) Regulations under this section which contain (whether alone or with other provision) provision that amends, repeals or revokes any of the text of any Northern Ireland legislation or Act of Parliament are not to be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

10 (5) In this section “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement and short title

3.—(1) Section 2 and this section come into operation on the day after the day on which this Act receives Royal Assent.

15 (2) Section 1 comes into operation on such day or days as the Department for Communities may by order appoint.

(3) An order under subsection (2) may contain such transitional, transitory or saving provision as the Department for Communities considers appropriate.

20 (4) This Act may be cited as the Social Security (Terminal Illness) Act (Northern Ireland) 2022.

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A Bill to provide that special social security rules which apply where life expectancy is 6 months or less are instead to apply where life expectancy is 12 months or less.

Introduced by: Ms Deirdre Hargey, Minister for Communities

On: 29 November 2021

Bill Type: Executive Bill

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
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