STATUTORY RULES OF NORTHERN IRELAND

2019 No. 107 (C. 4)

SOCIAL SECURITY

The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions (Amendment)) Order 2019

Made - - - - 14th May 2019

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by Article 2(2), (3)(a) and (4) of the Welfare Reform (Northern Ireland) Order 2015(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

Citation and interpretation

1.—(1) This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions (Amendment)) Order 2019.

(2) In this Order, "the No. 13 Order" means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019(**2**).

Amendment of the No. 13 Order

2.—(1) The No. 13 Order is amended as follows.

(2) In Article 2—

(a) in paragraph (1)—

(i) before "the 2002 Act", insert—

""the 1992 Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**);";

(ii) omit the definition of "couple";

(b) after paragraph (1), insert—

(**1**) S.I. 2015/2006 (N.I. 1).
(**2**) S.R. 2019 No. 4 (C. 1).
(**3**) 1992 c. 7.

"(1A) In this Order, "couple" has the meanings given by the 2002 Act(**4**), save—

(a) in reference to entitlement to housing benefit, where it has the meanings given by Part VII of the 1992 Act(**5**); and

(b) in Article 7(3)(a), where it has the meaning given by Article 7(2)(b)(ii).";

(c) in paragraph (3), after "Article 6(2)" insert "and Article 8(2)(b)";

(d) in paragraph (4)(b)—

(i) at the start, insert "save in Article 7(3)(a),";

(ii) after "part of a", insert "mixed-age";

(iii) for "the claim being made, or the person" substitute "a person claiming or";

(iv) for "a person" substitute "the person"; and

(v) omit "(save in Article 7(3)) a member of".

(3) In Article 7—

(a) in the heading, before "polygamous marriages" insert "application of the rules in universal credit for treatment of couples and";

(b) in paragraph (1), for "party to a polygamous marriage" substitute "member of a mixed-age couple";

(c) for paragraph (2) substitute—

"(2) For the purposes of paragraph (3)—

(a) all secondary legislation relevant to assessment of entitlement to state pension credit or housing benefit applies so that claims and awards may be made in respect of the party specified in paragraph (3)(a) or (b) as a part of a couple or as a single person respectively; and

(b) the following rules in regulation 3 of the Universal Credit Regulations (Northern Ireland) 2016 apply—

(i) the rule in paragraph (2) (treatment of certain couples), which establishes that a member of a couple may make a claim as a single person;

(ii) the rule in paragraph (3) (treatment of polygamous marriages), which establishes that two of the parties to a polygamous marriage are to be treated as a couple and the remaining party (or parties) as a single person (or single persons);

(iii) the rule in paragraph (5) (absence from the household), which establishes that members of a couple may cease to be treated as a couple.";

(d) in paragraph (3)—

(i) in sub-paragraph (a), for "(2)(a)" substitute "(2)(b)(ii)";

(ii) in sub-paragraph (b), for "(2)(a)" substitute "(2)(b)(i) to (iii)".

(4) After Article 7 insert—

(**4**) *See* section 17(1) for the definitions of married and unmarried couple.
(**5**) *See* section 133(1) for the definitions of married and unmarried couple.

"**Transitional provision: where restrictions on claims for universal credit are in place**

8.—(1) This Article applies to a member of a mixed-age couple who, further to Articles 3 to 7, is excluded from entitlement to state pension credit or housing benefit, and is also prevented from claiming universal credit by virtue of—

(a) regulation 2A of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (claims for universal credit may not be made in an area or category of case)(**6**);

(b) regulation 2B of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium)(**7**); or

(c) Article 2(11) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 14 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers)(**8**).

(2) Where this Article applies, the member of the mixed-age couple who has attained the qualifying age for state pension credit is, for the purposes of an award of benefit referred to in the following sub-paragraphs to that member, to be treated as—

(a) meeting the basic condition of entitlement (upper age limit) for—

(i) income support, in section 123(1)(aa) of the 1992 Act(**9**);

(ii) a jobseeker's allowance, in Article 3(2)(h) of the 1995 Order, or

(iii) an employment and support allowance, in section 1(3)(c) of the 2007 Act; and

(b) not having attained that age for housing benefit, for the purposes of regulation 5 of the Housing Benefit Regulations (Northern Ireland) 2006(**10**) and regulation 5 of the Housing Benefit SPC Regulations, so that the Housing Benefit Regulations (Northern Ireland) 2006 apply to the assessment of the award.

(3) This Article continues to apply until the award of benefit referred to in paragraph (2)(a) or (b) terminates, regardless of whether paragraph (1)(a), (b) or (c) continues to apply throughout the award.

(4) Where a member of a mixed-age couple who has attained the qualifying age for state pension credit is entitled to income support by virtue of paragraph (2)(a)(i), references to a claimant's partner in paragraphs 9 and 9A (conditions for pensioner premium)(**11**) and in paragraph 10 (condition for higher pensioner premium)(**12**) of Schedule 2 to the Income Support (General) Regulations 1987(**13**) have effect as though they were references to the claimant.

(5) In this Article—

"the 1995 Order" means the Jobseekers (Northern Ireland) Order 1995(**14**);

"the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007(**15**);

(**6**) S.R, 2016 No. 226; regulation 2A was inserted by regulation 12(2) of S.R. 2017 No. 116.
(**7**) Regulation 2B was inserted by regulation 2(3) of S.R. 2019 No. 2.
(**8**) S.R. 2019 No. 7 (C. 2).
(**9**) Section 123(1)(aa) was inserted by paragraph 2(a) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002.
(**10**) S.R. 2006 No. 405.
(**11**) Paragraph 9 was substituted by regulation 5(a) of S.R. 1989 No. 139 and amended by regulation 24(5)(a) of S.R. 2003 No. 191 and regulation 2(2)(a) of S.R. 2010 No. 103; paragraph 9A was substituted by regulation 5(a) of S.R. 1989 No. 191 and amended by 24(5)(b) of S.R. 2003 No. 191.
(**12**) Sub-paragraph (1) of paragraph 10 was substituted by regulation 24(5)(c)(i) of SR 2003 No. 191 and amended by regulation 2(a) of S.R. 2003 No. 413, regulation 2(7)(b)(i) of S.R. 2007 No. 154 and regulation 2(2)(b) of S.R. 2010 No. 103; sub-paragraph (5) was added by regulation 2(7)(b)(iii) of S.R. 2007 No. 154.
(**13**) S.R. 1987 No. 459.
(**14**) S.I. 1995/2705 (N.I. 15).
(**15**) 2007 c. 2 (N.I.).

"employment and support allowance" means an employment and support allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the Welfare Reform (Northern Ireland) Order 2015 that remove references to an income-related employment and support allowance;

"income support" has the same meaning as in Part VII of the 1992 Act;

"jobseeker's allowance" means a jobseeker's allowance under the 1995 Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 that remove references to an income-based jobseeker's allowance.".

Signed by authority of the Secretary of State for Work and Pensions

Guy Opperman
Parliamentary Under Secretary of State
Department for Work and Pensions

14th May 2019