STATUTORY RULES OF NORTHERN IRELAND

2016 No. 409

SOCIAL SECURITY

The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2016

Made - - - - 7th December 2016

Coming into operation 1st January 2017

The Department for Communities makes the following Regulations, in exercise of the powers conferred by sections 22(5) and 171(1), (3) and (4) of, and paragraph 8(1)(d) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), paragraph 18 of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995(**2**), Articles 10(1), 11(3), 74(1), (3), (5) and (6) of the Social Security (Northern Ireland) Order 1998(**3**), and now vested in it(**4**), and paragraph 11 of Schedule 2 to the Welfare Reform Act (Northern Ireland) 2007(**5**).

In accordance with paragraph 8(1A) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992, regulation 5 of these Regulations is made with the concurrence of the Commissioners for Her Majesty's Revenue and Customs(**6**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 and shall come into operation—

(a) for the purposes of this regulation, regulations 2 to 5, and regulation 6, in so far as it relates to Personal Independence Payment, on 1st January 2017; and

(**1**) 1992 c. 7; section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and paragraph 3(3)(b) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21); paragraph 8(1) of Schedule 1 was amended, and sub-paragraph (1A) was inserted, by paragraph 38(2) and (3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and sub-paragraph (1A) was amended by paragraph 12 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30)

(**2**) S.I. 1995/2705 (N.I. 15)

(**3**) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002

(**4**) *See* Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(**5**) 2007 c. 2 (N.I.)

(**6**) By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) references to the Commissioners of Inland Revenue in enactments are to be taken as references to the Commissioners for Her Majesty's Revenue and Customs

(b) for all other purposes, immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(**7**).

(2) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

Treatment of contribution-based jobseeker's allowance and contributory employment and support allowance

2.—(1) A contribution-based jobseeker's allowance and a contributory employment and support allowance are to be treated as benefits for the purposes of making provision under paragraph 8(1)(d) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (power to make provision for contributions paid at one time to be treated as paid at some other time).

(2) In this regulation—

"contribution-based jobseeker's allowance" means a contribution-based jobseekers's allowance under Part 2 of the Jobseekers (Northern Ireland) Order 1995;

"contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007.

Amendment of the Social Security (Credits) Regulations

3.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**9**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 7B(2)(**10**) (credits for disability element of working tax credit)—

(a) at the end of sub-paragraph (a) omit "or";

(b) for sub-paragraph (b) substitute—

"(b) a self-employed earner whose profits for the year are below the small profits threshold specified in section 11(4) of the Contributions and Benefits Act(**11**) (Class 2 contributions), who would otherwise be liable to pay a Class 2 contribution; or

(c) excepted from liability to pay a Class 2 contribution by virtue of regulation 43 of the Social Security (Contributions) Regulations 2001(**12**) (exception from Class 2 contributions).".

(3) In regulation 7C(1)(**13**) (credits for working tax credit(**14**))—

(a) at the end of sub-paragraph (a) omit "or";

(b) for sub-paragraph (b) substitute—

"(b) a self-employed earner—

(i) whose profits for the year are below the small profits threshold specified in section 11(4) of the Contributions and Benefits Act, who would otherwise be liable to pay a Class 2 contribution; or

(**7**) S.R. 2016 No. 216
(**8**) 1954 c. 33 (N.I.)
(**9**) S.R. 1975 No. 113; relevant amending Regulations are S.R. 1991 No. 528, S.R. 2001 No. 108 and S.R. 2003 No. 195
(**10**) Regulation 7B was inserted by regulation 3 of S.R. 1991 No. 528 and paragraph (2) was amended by paragraph 1(c) and (d) of Schedule 4 to S.R. 2003 No. 195
(**11**) Section 11(4) was substituted by paragraph12 of Schedule 1 to the National Insurance Contributions Act 2015 (c. 5)
(**12**) S.I. 2001/1004; regulation 43 was amended by regulation 3 of S.I. 2002/2924 and regulation 4 of S.I. 2015/478
(**13**) Regulation 7C was inserted by regulation 2 of S.R. 1995 No. 479 and paragraph (1) was amended by regulation 3(6) of S.R. 2001 No. 108 and paragraph 1(e)(i) and (ii) of Schedule 4 to S.R. 2003 No. 195
(**14**) The heading to regulation 7C was amended by paragraph 1(d) of Schedule 4 to S.R. 2003 No. 195

(ii) who is excepted from liability to pay a Class 2 contribution by virtue of regulation 43 of the Social Security (Contributions) Regulations 2001.".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

4.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**15**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "bereavement allowance"(**16**) insert—

""bereavement benefit" means—

(a) a bereavement allowance;

(b) a bereavement payment; or

(c) a widowed parent's allowance;

"bereavement payment" means a bereavement payment under section 36 of the Contributions and Benefits Act(**17**);";

(b) in the definition of "the Board"(**18**) for "of Inland Revenue" substitute "for Her Majesty's Revenue and Customs";

(c) after the definition of "clerk to the appeal tribunal" insert—

""contribution-based jobseeker's allowance" means a contribution-based jobseeker's allowance under Part 2 of the Jobseekers Order;";

(d) after the definition of "couple" insert—

""the Crediting and Treatment of Contributions etc. Regulations" means the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001(**19**);".

(3) In regulation 3 (revision of decisions)—

(a) after paragraph (8C)(**20**) insert—

"(8D) A decision in relation to a claim for a contribution-based jobseeker's allowance or a contributory employment and support allowance may be revised at any time where—

(a) on or after the date of the decision, a contribution is treated as paid as set out in regulation 7A of the Crediting and Treatment of Contributions etc. Regulations(**21**) (treatment of Class 2 contributions paid on or before the due date); and

(b) by virtue of the contribution being so treated, the person satisfies the contribution conditions of entitlement listed in column 2 of the table in paragraph (8F) in relation to a contribution-based jobseeker's allowance or a contributory employment and support allowance.

(8E) A decision to award a benefit listed in column 1 of the table in paragraph (8F) may be revised at any time where, on or after the date of the decision—

(**15**) S.R. 1999 No. 162; relevant amending provisions are S.R. 1999 No. 271, S.R. 2001 Nos. 102 and 108, S.R. 2008 No. 417, S.R. 2009 No. 105 and S.R. 2010 No. 200
(**16**) The definition of "bereavement allowance" was inserted by regulation 12(2)(a) of S.R. 2001 No. 108
(**17**) Section 36 was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 70 of Schedule 24 to the Civil Partnership Act 2004 (c. 33)
(**18**) The definition of "the Board" was inserted by Article 3(2)(a)(i) of S.R. 1999 No. 271
(**19**) S.R. 2001 No. 102
(**20**) Paragraph (8C) was added by regulation 2 of S.R. 2009 No. 105
(**21**) Regulation 7A is inserted by regulation 5(5) of these Regulations

(a) any of the circumstances set out in paragraph (8G) occur; and

(b) by virtue of the circumstance occurring, the person ceases to satisfy the contribution conditions of entitlement listed in the corresponding entry in column 2 of that table.

(8F) The table referred to in paragraphs (8D) and (8E) is as follows—

1. Benefit	*2. Contribution conditions of entitlement*
Contribution-based jobseeker's allowance.	The conditions set out in Article 4(1)(a) and (b) of the Jobseekers Order(**22**).
Contributory employment and support allowance.	The first and second conditions set out in paragraphs 1(1) and 2(1) of Schedule 1 to the Welfare Reform Act(**23**).
Bereavement allowance.	The contribution conditions set out in paragraph 5(2) and (3) of Schedule 3 to the Contributions and Benefits Act(**24**).
Widowed parent's allowance.	The contribution conditions set out in paragraph 5(2) and (3) of Schedule 3 to the Contributions and Benefits Act.
Bereavement payment.	The contribution condition specified in paragraph 4(1) of Schedule 3 to the Contributions and Benefits Act(**25**).
Category A or Category B retirement pension under Part II of the Contributions and Benefits Act.	The contribution conditions set out in paragraph 5(2) and (3) or, as the case may be, paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act(**26**).
State pension under Part 1 of the Pensions Act (Northern Ireland) 2015(**27**).	The conditions of entitlement to a state pension in section 2(1)(b) or, as the case may be, section 2(2)(b) or 4(1)(b) and (c) of the Pensions Act (Northern Ireland) 2015.

(8G) The circumstances are—

(a) a Class 2 contribution is repaid to a person in consequence of an amendment or correction of the person's relevant profits under section 9ZA or 9ZB of the Taxes Management Act 1970(**28**) (amendment or correction of return by taxpayer or officer of the Board); or

(**22**) Article 4 was amended by paragraph 102 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, paragraph 4 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 46 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) and section 1(1) to (5) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.))

(**23**) Paragraph 1(1) was amended by section 12(1) to (3) of the Welfare Reform Act (Northern Ireland) 2010

(**24**) Paragraph 5(2) was amended by paragraph 33(4) of Schedule 1 to the National Insurance Contributions Act 2002, and paragraph 5(3) was amended by Article 126 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(**25**) Paragraph 4(1) was amended by paragraph 12(2) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**26**) Paragraph 5A of Schedule 3 was inserted by section 1(3) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(**27**) 2015 c. 5 (N.I.)

(**28**) 1970 (c.9); sections 9ZA and 9ZB were inserted by paragraph 2(2) of Schedule 29 to the Finance Act 2001 (c. 9); section 9ZA was amended by section 91(2) of the Finance Act 2007 (c. 11); section 9ZB was amended by section 119(1) of the Finance Act 2008 (c. 9)

(b) a Class 2 contribution is returned to a person under regulation 52 of the Social Security (Contributions) Regulations 2001(**29**) (contributions paid in error); or

(c) a Class 1 or Class 2 contribution paid by a person to Her Majesty's Revenue and Customs under section 223 of the Finance Act 2014(**30**) (accelerated payment in respect of notice given while tax enquiry is in progress) is repaid to the person.

(8H) A decision to award a benefit specified in paragraph (8J) may be revised at any time where, on or after the date of the decision—

(a) any of the circumstances set out in paragraph (8G) occur; and

(b) by virtue of the circumstances occurring, the decision was more advantageous to the claimant than it would otherwise have been.

(8I) A decision to award a benefit specified in paragraph (8J), or a decision that that benefit is not payable, may be revised at any time where, on or after the date of the decision, a contribution is treated as paid by the relevant day by virtue of regulation 7(1) of the Crediting and Treatment of Contributions etc. Regulations(**31**) (treatment for the purpose of any contributory benefit of contributions paid under certain provisions relating to the payment and collection of contributions(**32**)).

(8J) The benefits specified in this paragraph are—

(a) a bereavement benefit;

(b) a Category A or Category B retirement pension under Part II of the Contributions and Benefits Act;

(c) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015.";

(b) after paragraph (11) add—

"(12) In this regulation—

"relevant day" has the meaning given in regulation 7(3)(b) of the Crediting and Treatment of Contributions etc. Regulations;

"relevant profits" has the same meaning given in section 11(3) of the Contributions and Benefits Act(**33**);".

(4) In regulation 6(2) (supersession of decisions) after sub-paragraph (r)(**34**) add—

"(s) is a decision where on or after the date on which the decision was made, a late contribution is treated as paid by virtue of regulation 4 of the Crediting and Treatment of Contributions etc. Regulations for the purposes of entitlement to—

(i) a bereavement benefit;

(ii) a Category A or Category B retirement pension under Part II of the Contributions and Benefits Act; or

(iii) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015.".

(5) In regulation 7 (date from which a decision superseded under Article 11 takes effect) after paragraph (39)(**35**) add—

(**29**) Regulation 52 was substituted by regulation 12 of S.I. 2004/770
(**30**) 2014 (c. 26); section 223 was amended by paragraph 6 of Schedule 18 to the Finance Act 2015 (c. 11)
(**31**) Regulation 7(1) is substituted by regulation 5(4)(b) of these Regulations
(**32**) The heading to regulation 7 is amended by regulation 5(4)(a) of these Regulations
(**33**) Section 11 was substituted by paragraph 12 of Schedule 1 to the National Insurance Contributions Act 2015
(**34**) Sub-paragraph (r) was added by regulation 3(3)(b) of S.R. 2008 No. 417
(**35**) Paragraph 39 was added by regulation 7(4)(b) of S.R. 2010 No. 200