STATUTORY RULES OF NORTHERN IRELAND

2016 No. 225

SOCIAL SECURITY

The Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*3rd May 2016*
Laid before Parliament	*10th May 2016*
Coming into operation	*26th September 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Article 74(3) to (6) of the Social Security (Northern Ireland) Order 1998(**1**) and sections 5B, 6, 7(4), 8 and 10(1) of the Social Security Fraud Act (Northern Ireland) 2001(**2**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(**3**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2016 and come into operation on 26th September 2016.

Amendment of the Social Security (Loss of Benefit) Regulations

2. The Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002(**4**) are amended in accordance with regulations 3 to 12.

(**1**) S.I. 1998/1506 (N.I. 10); *see* section 10(4) of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17 (N.I.)).

(**2**) 2001 c. 17 (N.I.); section 5B was inserted by section 19(1) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)) ("the 2010 Act") and amended by Articles 117 and 118(2) of, and paragraph 47 of Schedule 2 to, the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)) ("the Order"); section 6 was amended by paragraph 33 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 45 of, and paragraph 14 of Schedule 3 to, the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), paragraph 1 of Schedule 3 and Part 3 of Schedule 4 to the 2010 Act and Articles 117(7) and 118 of, and paragraph 48 of Schedule 2 to, the Order; section 7 was amended by section 1(5) of, and paragraph 2 of Schedule 3 and Part 3 of Schedule 4, to the 2010 Act and paragraph 49 of Schedule 2 to the Order; section 8 was amended by paragraph 34 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 14 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, paragraph 3 of Schedule 3 to the 2010 Act and paragraph 50 of Schedule 2 to the Order; section 10(1) was amended by paragraph 5 of Schedule 3 to the 2010 Act.

(**3**) S.I. 2015/2006 (N.I. 1).

(**4**) S.R. 2002 No. 79; amended by S.R. 2003 No. 28, S.R. 2005 No. 458, S.R. 2005 No. 536, S.R. 2006 No. 407, S.R. 2008 No. 147 (C. 7), S.R. 2008 No. 286, S.R. 2011 No. 291, S.I. 2013/3021 and S.R. 2014 No. 150.

Amendment of regulation 1(2)

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

(a) before the definition of "the Act" insert—

""the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007;"(**5**);

(b) after the definition of "the Benefits Act" insert—

""the Order" means the Welfare Reform (Northern Ireland) Order 2015;";

(c) after the definition of "armed forces independence payment"(**6**) insert—

""assessment period" has the same meaning as in the UC Regulations;";

(d) after the definition of "the determination day"(**7**) insert—

""the ESA Regulations" means the Employment and Support Allowance Regulations (Northern Ireland) 2008;"(**8**);

(e) after the definition of "the Housing Benefit (State Pension Credit) Regulations"(**9**) insert—

""income-based jobseeker's allowance" means an income-based allowance under the Jobseekers Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the Order (to remove references to an income-based allowance);";

""income-related employment and support allowance" means an income-related 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 Order (to remove references to an income-related allowance);";

(f) after the definition of "the Jobseeker's Allowance Regulations" insert—

""joint claimant" means each of the "joint claimants" in that definition in Article 46 of the Order;";

(g) after the definition of "pay day"(**10**) insert—

""personal independence payment" means the allowance payable in accordance with Part 5 of the Order;";

(h) after the definition of "relevant authority"(**11**) insert—

""the UC Regulations" means the Universal Credit Regulations (Northern Ireland) 2016;"(**12**);

""universal credit" means the benefit payable in accordance with Part 2 of the Order.".

Amendment of regulation 1A

4.—(1) Regulation 1A (disqualification period: section 5B(11) of the Act)(**13**) is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (2)(a), at the end, insert "other than universal credit or a benefit to which paragraph (5A) applies".

(3) After paragraph (5) insert—

(**5**) 2007 c. 2 (N.I.).
(**6**) Definition inserted by Article 22(2) of S.I. 2013/3021.
(**7**) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.
(**8**) S.R. 2008 No. 280.
(**9**) Definition substituted by paragraph 10(2) of Schedule 2 to S.R. 2006 No. 407.
(**10**) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.
(**11**) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.
(**12**) S.R. 2016 No. 216.
(**13**) Regulations 1A and 2 substituted by regulation 2(3) of S.R. 2011 No. 291.

"(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender's family member is—

(a) in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears; and

(b) not in receipt of any other sanctionable benefit.".

(4) In paragraph (6), for "neither paragraph (2) nor paragraph (4) applies" substitute "paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day".

(5) After paragraph (6) insert—

"(6A) Paragraph (6B) applies where, on the determination day, the offender or, as the case may be, the offender's family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

(a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;

(b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.".

(6) In paragraph (7)—

(a) in sub-paragraph (a), after "paragraph (2)" insert "or (6A)";

(b) in sub-paragraph (b)—

(i) for "that paragraph" substitute "those paragraphs";

(ii) after "paragraph (3)" insert "or (6B)".

Amendment of regulation 2

5.—(1) Regulation 2 (disqualification period: section 6(6) of the Act) is amended in accordance with paragraphs (2) to (7).

(2) In paragraph (2)(a), at the end, insert "other than universal credit or a benefit to which paragraph (5A) applies".

(3) After paragraph (5) insert—

"(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender's family member is—

(a) in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears; and

(b) not in receipt of any other sanctionable benefit.".

(4) In paragraph (6)—

(a) for "neither paragraph (2) nor paragraph (4) applies" substitute "paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day";

(b) in sub-paragraph (c), at the beginning, insert "universal credit,".

(5) After paragraph (6) insert—

"(6A) Paragraph (6B) applies where on the determination day, the offender or, as the case may be, the offender's family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

(a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;

(b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.".

(6) In paragraph (7), after "this regulation" insert "but except where paragraph (8) applies".

(7) After paragraph (7) insert—

"(8) Where the date of the conviction of the offender for the benefit offence in the later proceedings is on or after 26th September 2016 and on the determination day—

(a) paragraph (2) or (6A) applies in the case of the offender or, as the case may be, the offender's family member; but

(b) that person ceases to be in receipt of a benefit referred to in those paragraphs before the first day of the disqualification period that would apply by virtue of paragraph (3) or (6B),

DQ-day is the first day after the end of the period of 28 days beginning with the determination day.".

Insertion of regulation 2A

6. After regulation 2 insert—

"**Prescribed relevant offences under section 5B(14)(b) of the Act**

2A.—(1) Paragraph (2) prescribes those offences which are relevant offences for the purposes of sections 5B and 6 of the Act where section 5B(14)(b)(i), (ii) or (iii) of the Act applies.

(2) The offences referred to in paragraph (1) are offences under—

(a) section 8 of the Accessories and Abettors Act 1861(**14**);

(b) Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(**15**);

(c) section 1, 3, 4 or 5 of the Forgery and Counterfeiting Act 1981(**16**);

(d) section 6 or 7 of the Fraud Act 2006(**17**);

(e) section 44, 45 or 46 of the Serious Crime Act 2007(**18**);

(f) section 158 of the Administration Act;

(g) section 327, 328 or 329 of the Proceeds of Crime Act 2002(**19**);

(h) section 4, 5 or 6 of the Identity Documents Act 2010(**20**).

(3) Paragraph (4) prescribes offences which are relevant offences for the purposes of sections 5B and 6 of the Act where section 5B(14)(b)(i) or (ii) of the Act applies.

(4) The offences referred to in paragraph (3) are offences under—

(a) section 1 of the Fraud Act 2006;

(**14**) 1861 c.94 (24 and 25 Vict); amended by Schedule 12 to the Criminal Law Act 1977 (c. 45).
(**15**) S.I. 1983/1120 (N.I. 13); relevant amending provisions are Schedule 4 to the Trade Union and Labour Relations (Northern Ireland) Order 1995 (S.I.1995/1980 (N.I. 12)) and paragraph 5 of Schedule 1 and Schedule 2 to the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40).
(**16**) 1981 c. 45; relevant amending provisions are section 88 of the Crime (International Co-operation) Act 2003 (c. 32) and paragraph 67 of Schedule 27 to the Civil Partnership Act 2004 (c. 33).
(**17**) 2006 c. 35.
(**18**) 2007 c. 27.
(**19**) 2002 c. 29; sections 327 to 329 were amended by sections 102 and 103 of the Serious Organised Crime and Police Act 2005 (c. 15).
(**20**) 2010 c. 40.

(b) section 105A of the Administration Act(**21**);

(c) section 35 of the Tax Credits Act 2002(**22**).".

Amendment of regulation 3 and transitional provision

7.—(1) Regulation 3 (reduction of income support and income-related employment and support allowance)(**23**) is amended in accordance with paragraphs (2) to (6).

(2) In the heading omit "and income-related employment and support allowance".

(3) In paragraph (1) omit "or income-related employment and support allowance".

(4) In paragraph (5) omit "or income-related employment and support allowance".

(5) In paragraph (6) omit from "or, as the case may be" to the end.

(6) The amendments made by this regulation do not apply—

(a) in relation to a person whose payment of income-related employment and support allowance was being reduced in accordance with regulation 3 of the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 on 26th September 2016; or

(b) where the offence, in respect of which income-related employment and support allowance falls to be reduced, was committed before 26th September 2016.

Insertion of regulations 3ZA and 3ZB

8. After regulation 3 insert—

"**Reduction of income-related employment and support allowance**

3ZA.—(1) Subject to paragraphs (4) and (5), any payment of an income-related employment and support allowance which falls to be made to an offender in respect of any week in the disqualification period or to an offender's family member in respect of any week in the relevant period is to be reduced in accordance with paragraph (2).

(2) The amount of the reduction is to be—

(a) where the offender or, as the case may be, the offender's family member, is pregnant or seriously ill, a sum equivalent to 20 per cent.;

(b) where the offender or, as the case may be, the offender's family member is subject to no work-related requirements for the purpose of section 11D of the 2007 Act(**24**), a sum equivalent to 40 per cent.;

(c) in any other case, a sum equivalent to 100 per cent.,

of the applicable amount for a single claimant specified in paragraph 1(1) of Schedule 4 to the ESA Regulations on the day specified in paragraph (3).

(3) The specified day is—

(a) where a payment to the offender falls to be reduced, on the first day of the disqualification period; or

(**21**) Section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and amended by paragraph 5 of Schedule 6 and Part V of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and sections 15(1) of, and the Schedule to, the Social Security Fraud Act (Northern Ireland) 2001 (c.17 (N.I.)).

(**22**) 2002 c. 21.

(**23**) Regulation 3 was amended by regulation 29(3) of S.R. 2008 No. 286 and regulation 2(4) of S.R. 2011 No. 291.

(**24**) Section 11D was inserted by Article 63(2) of the Welfare Reform (Northern Ireland) Order 2015 (N.I. 1).