STATUTORY RULES OF NORTHERN IRELAND

2016 No. 220

SOCIAL SECURITY

The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016

Made - - - - 4th May 2016

Laid before Parliament 10th May 2016
Coming into operation in accordance with regulation 1(2) and (3)

[F1][F2][F3][F4][F5]The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Article 40(1) (as substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 **)** and 40(2) (as it has effect apart from section 20 of that Act) of the Child Support (Northern Ireland) Order 1991 and sections 1(1) and (1C), 5(1)(a) to (d), (g), (i) to (n), (q) and (r), (1A) and (2B), 5A(2)(b), 13A(2) and (3), 105A(1A)(d), (1B)(d), (1D)(c) and (1E)(c), 106(1A)(d), (1B)(d), (1C)(c) and (1D)(c), 165(1) and (4) to (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992 and Articles 38 and 97 of, and paragraph 3 of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015 .

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

F1 Article 40(1) was substituted by Article 129 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)).

F2 2000 c. 4 (N.I.); section 20 of that Act substituted Article 40 of the Child Support (Northern Ireland) Order 1991 in relation to certain cases only, *see* Article 3 of S.R. 2003 No. 53 (C. 4).

F3 S.I. 1991/2628 (N.I. 23).

F4 1992 c. 8; section 1(1C) was inserted by Article 18 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)), in section 5 subsection (1)(d), (g) and (k) is amended by Article 103 of the Welfare Reform (Northern Ireland) Order 2015 and subsections (1A) and (2B) are inserted respectively by Articles 104(3) and 105 of that Order, section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (2)(b) was amended by paragraph 8(a) of Schedule 1 to the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)), **section 13A** was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9)) and subsection (2) was amended by paragraph 9(b) and (c) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and subsection (3) was amended by Article 18(2) of S.I. 2002/1555, **section 105A** was inserted by Article 12 of the Social Security Administration (Fraud)

(Northern Ireland) Order 1997 and subsections (1A) to (1E) were inserted by section 15(1)(b) of the Social Security Fraud Act (Northern Ireland) Act 2001 (c. 17 (N.I.)), in section 106 subsection (1A) was inserted by Article 13 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 and subsections (1A) to (1D) were substituted by section 15(2) of the Social Security Fraud Act (Northern Ireland) 2001 and section 165 was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), **Schedule 7** to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7) and is amended by Article 108(1) of the Welfare Reform (Northern Ireland) Order 2015. Section 167(1) is cited for the meaning it gives to 'prescribe'.

F5 S.I. 2015/2006 (N.I. 1).

Modifications etc. (not altering text)

C1 Regulations applied (25.9.2017) by The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017 (S.R. 2017/190), **art. 2(2)**

C2 Regulations applied (coming into force in accordance with reg. 1(2) of the amending Regulations) by The Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 (S.R. 2017/146), **Sch. 2 para. 1(4)**

C3 Regulations applied (13.11.2017) by The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 9 and Transitional and Transitory Provisions) Order 2017 (S.R. 2017/216), **art. 2(2)**

C4 Regulations applied (15.1.2018) by The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 10 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2018 (S.R. 2018/1), **art. 2(2)**

C5 Regulations applied (9.5.2018) by The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 11 and Transitional and Transitory Provisions) Order 2018 (S.R. 2018/97), **art. 2(2)**

C6 Regulations applied (19.7.2018) by The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 12 and Transitional and Transitory Provisions and Commencement No. 9, 10 and 11 and Transitional and Transitory Provisions (Amendment)) Order 2018 (S.R. 2018/138), **art. 2(2)**

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016.

(2) For the purpose of personal independence payment these Regulations come into operation on 20th June 2016.

(3) For the purposes of universal credit, jobseeker's allowance and employment and support allowance these Regulations come into operation immediately after the coming into operation of the Universal Credit Regulations.

Interpretation

2.—(1) In these Regulations—

"the 2007 Act" means the Welfare Reform Act (Northern Ireland) 2007 [F6];

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

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

"appropriate office" means—

(a) an office of the Department or any other place designated by the Department in relation to any case or class of case as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received for the purposes of these Regulations and includes a postal address specified by the Department for that purpose; or

(b) in the case of a person who is authorised or required by these Regulations to use an electronic communication for any purpose, an address to which such communications may be sent in accordance with Schedule 1;

"assessment period" has the meaning given by regulation 22 of the Universal Credit Regulations;

"attendance allowance" means an allowance payable by virtue of section 64 of the Contributions and Benefits Act [F7];

"benefit", except in regulation 55 and Schedules 4 and 5, means universal credit, personal independence payment, a jobseeker's allowance or employment and support allowance;

"child" has the meaning given by Article 46 of the 2015 Order;

"the Child Support Order" means the Child Support (Northern Ireland) Order 1991;

"claimant" in relation to—

(a) universal credit, has the meaning given by Article 46 of the 2015 Order;

(b) personal independence payment, means any person who is a claimant for the purposes of regulations made under Part 5 of that Order;

(c) a jobseeker's allowance, has the meaning given by Article 2(2) of the Jobseekers Order [F8]; and

(d) an employment and support allowance, has the meaning given by section 24(1) of the 2007 Act;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F9];

"couple" has the meaning given by Article 45 of the 2015 Order;

"disability living allowance" means an allowance payable by virtue of section 71 of the Contributions and Benefits Act [F10];

"earned income" has the meaning given by regulation 51 of the Universal Credit Regulations;

"electronic communication" has the meaning given by section 4(1) of the Electronic Communications Act (Northern Ireland) 2001 [F11];

"employment and support allowance" means an allowance under Part 1 of the 2007 Act (as amended by Schedule 3 and Part 1 of Schedule 12 to the 2015 Order that remove references to an income-related allowance);

"jobseeker's allowance" means an allowance under the Jobseekers Order (as amended by Part 1 of Schedule 12 to the 2015 Order that removes references to an income-based allowance);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 2016 [F12];

"the Jobseekers Order" means the Jobseekers (Northern Ireland) Order 1995 [F13];

"limited capability for work" has the meaning given by section 1(4) of the 2007 Act;

"maternity allowance" means an allowance payable by virtue of section 35 of the Contributions and Benefits Act [F14];

"office closure" means a period during which an appropriate office is closed in connection with a public holiday;

"official computer system" means a computer system maintained by or on behalf of the Department to—

(a) send or receive any claim or information; or

(b) process or store any claim or information;

"partner" means one of a couple;

"personal independence payment" means the allowance under Part 5 of the 2015 Order;

"the Personal Independence Payment Regulations" means the Personal Independence Payment Regulations (Northern Ireland) 2016 [F15];

"qualifying young person" has the meaning given by regulation 6 of the Universal Credit Regulations;

"regular and substantial caring responsibilities for a severely disabled person" has the meaning given by regulation 31 of the Universal Credit Regulations;

"universal credit" means the benefit under Part 2 of the 2015 Order;

"the Universal Credit Regulations" means the Universal Credit Regulations (Northern Ireland) 2016 [F16];

"writing" includes writing produced by means of electronic communications used in accordance with Schedule 1.

(2) Subject to paragraph (3), the Interpretation Act (Northern Ireland) 1954 [F17] shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(3) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

F6 2007 c. 2 (N.I.).

F7 Section 64 was amended by Article 63(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

F8 The definition of "claimant" was amended by paragraph 2(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999.

F9 1992 c. 7.

F10 Section 71 was amended by Article 64(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

F11 2001 c. 9 (N.I.); the definition of "electronic communication" was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21).

F12 S.R. 2016 No. 218.

F13 S.I. 1995/2705 (N.I. 15).

F14 Section 35 was amended by Article 4(a) of the Still Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10)), Article 63 of the Social Security (Northern Ireland) Order 1998, Article 50(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 2 of Schedule 1 to the Social Security Act (Northern Ireland) 2002, paragraph 5 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), **regulation 2(3)** of S.R. 1994

No. 176, **regulation 2(3)** of S.R. 2014 No. 102 and section 6(2) and (3) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

F15 S.R. 2016 No. 217.

F16 S.R. 2016 No. 216.

F17 1954 c. 33 (N.I.).

Use of electronic communications

3. Schedule 1 makes provision as to the use of electronic communications.

Consequential amendments

4. Schedule 2 makes amendments consequential upon these Regulations.

Disapplication of section 1(1A) of the Administration Act

5. Section 1(1A) of the Administration Act [F18] (entitlement to benefit dependent on claim) is not to apply to a child or a qualifying young person in respect of whom universal credit is claimed.

F18 Subsection (1A) was inserted by Article 18 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997.

PART 2

Claims

Claims not required for entitlement to employment and support allowance in certain cases

6.—(1) It is not to be a condition of entitlement to an employment and support allowance that a claim be made for it where—

(a) the claimant has made and is pursuing an appeal against a relevant decision of the Department; and

(b) the appeal relates to a decision to terminate or not to award an employment and support allowance for which a claim was made.

(2) In this regulation—

"appellate authority" means an appeal tribunal, a Commissioner, the Court of Appeal or the Supreme Court;

"relevant decision" means—

(a) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work; or

(b) a decision that embodies the first determination by the Department that the claimant does not have limited capability for work since a previous determination by the Department or appellate authority that the claimant does have limited capability for work.

Making a claim for universal credit

7.—(1) Except as provided in paragraph (2), a claim for universal credit must be made by means of an electronic communication in accordance with the provisions set out in Schedule 1 and completed in accordance with any instructions given by the Department for that purpose.