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STATUTORY RULES OF NORTHERN IRELAND

2013 No. 67

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2013

Made - - - -	*13th March 2013*
Coming into operation	*2nd April 2013*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 131(1), 132(1), 132A(3), 133(2)(h) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 6(5), 14(4), 15(2) and 36(1) and (2) of the Jobseekers (Northern Ireland) Order 1995(**2**), Articles 11(6) and 74(1) and (5) of the Social Security (Northern Ireland) Order 1998(**3**), and now vested in it(**4**), sections 2(3)(b), 15(3) and (6) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**5**) and sections 17(1) and (3)(b) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**6**).

Regulations 6 and 7 are made with the consent of the Department of Finance and Personnel(**7**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 6 and 7 should not be referred to it(**8**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 and shall come into operation on 2nd April 2013.

(**1**) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(**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
(**5**) 2002 c. 14 (N.I.)
(**6**) 2007 c. 2 (N.I.)
(**7**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *seealso* Article 6(b) of S.R. 1999 No. 481
(**8**) S*ee* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (1992 c. 8)

(2) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Income Support Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**10**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 54 (interpretation) in paragraph (e)(ii)(**11**) of the definition of "payment"—

(a) omit "the payment is"; and

(b) for "rent or rates, housing costs" substitute "rent or rates for which housing benefit is payable, housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs)".

(3) In paragraph 18(7)(i)(**12**) of Schedule 3 (housing costs – non-dependant deductions) before "employment and support allowance" insert "income-related".

Amendment of the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**13**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 117 (interpretation) in paragraph (e)(ii)(**14**) of the definition of "payment"—

(a) omit "the payment is"; and

(b) for "rent or rates, housing costs" substitute "rent or rates for which housing benefit is payable, housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs)".

(3) After regulation 140(5) (**15**) (meaning of "person in hardship") add—

"(6) In paragraph (5)(b), "resources" does not include any sum, where applicable, specified in paragraph 6B(1) and (2)(**16**) of Schedule 6 (sums to be disregarded in the calculation of income other than earnings – child tax credit and child benefit).".

(4) In paragraph 17(7)(i)(**17**) of Schedule 2 (housing costs – non-dependant deductions) before "employment and support allowance" insert "income-related".

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

4. In Schedule 2B of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**18**) (date on which change of circumstances takes effect where a claimant is entitled to state pension credit)—

(**9**) 1954 c.33 (N.I.)
(**10**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 2008 Nos. 286, 406 and 413 and S.R. 2011 No. 135
(**11**) Paragraph (e) was substituted by regulation 2(6)(e)(ii) of S.R. 2008 No. 406 and sub-paragraph (ii) was amended by regulation 3(5) of S.R. 2011 No. 135
(**12**) Paragraph 18(7)(i) was added by regulation 12(11)(g) of S.R. 2008 No. 286 and amended by regulation 5(2)(b) of S.R. 2008 No. 413
(**13**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1997 No. 541, S.R. 2000 No. 350, S.R. 2003 No. 195, S.R. 2008 Nos. 112, 286, 406 and 413 and S.R. 2011 No. 135
(**14**) Paragraph (e) was substituted by regulation 3(6)(d)(ii) of S.R. 2008 No. 406 and sub-paragraph (ii) was amended by regulation 7(6) of S.R. 2011 No. 135
(**15**) Regulation 140 has amendments not relevant to these Regulations
(**16**) Paragraph 6B was inserted by regulation 3 and paragraph 23(b) of Schedule 2 to S.R. 2003 No. 195
(**17**) Head (i) was added by regulation 19(25)(f)(ii) of S.R. 2008 No. 286 and amended by regulation 5(4) of S.R. 2008 No. 413
(**18**) S.R. 1999 No. 162; Schedule 2B was inserted by regulation 22 of S.R. 2003 No. 191, relevant amending Regulations are S.R. 2003 No. 191 and S.R. 2011 No. 135

(a) for paragraph 2(**19**) substitute—

"**2.** Subject to paragraph 3, where the relevant change is that—

(a) the claimant's income or the income of the claimant's partner (other than deemed income from capital) has changed;

(b) the claimant or the claimant's partner becomes entitled to—

(i) disability living allowance (middle or higher rate care component), or

(ii) attendance allowance; or

(c) the claimant or their partner again receives either of those allowances mentioned in sub-paragraph (b) immediately after the end of the period specified in paragraph 2A,

the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week."; and

(b) after paragraph 2 insert—

"**2A.** A period specified for the purposes of paragraph 2 is a period when the claimant or the claimant's partner is maintained free of charge while undergoing medical or other treatment as an in-patient in—

(a) a hospital or a similar institution under the Health and Personal Social Services (Northern Ireland) Order 1972(**20**) or the Health and Personal Social Services (Northern Ireland) Order 1991(**21**); or

(b) a hospital or similar institution maintained or administered by the Defence Council.".

Amendment of the State Pension Credit Regulations

5. In paragraph 14(7)(g)(**22**) of Schedule 2 of the State Pension Credit Regulations (Northern Ireland) 2003(**23**) (housing costs – persons residing with the claimant) before "employment and support allowance" insert "income-related".

Amendment of the Housing Benefit Regulations

6.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**24**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) for paragraph (16)(c)(i) substitute—

"(i) a person to whom paragraph (16A) applies;"; and

(b) after paragraph (16) insert—

"(16A) This paragraph applies to a person ("P") who is detained in custody on remand pending trial, detained pending sentence upon conviction, or as a condition of bail, required to reside in a dwelling, other than a dwelling P occupies as P's home, and who is not also detained in custody following sentence upon conviction.".

(**19**) Paragraph 2 was amended by regulation 8(b) of S.R. 2011 No. 135
(**20**) S.I. 1972/1265 (N.I. 14)
(**21**) S.I. 1991/194 (N.I. 1)
(**22**) Paragraph 14(7)(g) was added by regulation 30(8)(e) of S.R. 2008 No. 286
(**23**) S.R. 2003 No. 28; relevant amending Regulation is S.R. 2008 No. 286
(**24**) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 378 and S.R. 2010 No. 312

(3) In Schedule 4 (applicable amounts)—

(a) in Part V(**25**) (the components) for paragraph 21 substitute—

"**21.**—(1) Subject to paragraph 22, the claimant is entitled to one, but not both, of the components in paragraph 23 or 24 if—

(a) the claimant or the claimant's partner has made a claim for employment and support allowance;

(b) the Department has determined that the claimant or the claimant's partner—

(i) has limited capability for work or limited capability for work-related activity, or

(ii) is to be treated as having limited capability for work other than by virtue of regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made); and

(c) one of the following applies—

(i) the assessment phase as defined in section 24(2) of the Welfare Reform Act (interpretation) has ended;

(ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply) applies, or

(iii) the conditions in sub-paragraph (2) apply.

(2) The conditions referred to in sub-paragraph (1)(c)(iii) are—

(a) neither the claimant nor the claimant's partner is entitled to an employment and support allowance;

(b) either is or both are entitled to be credited with earnings equal to the lower earnings limit then in operation under regulation 8B(2)(a)(iv) of the Social Security (Credits) Regulations (Northern Ireland) 1975(**26**) (credits for incapacity for work or limited capability for work); and

(c) sub-paragraph (1)(c)(i) or (ii) would have applied to the claimant or the claimant's partner (or both) had they been entitled to an employment and support allowance."; and

(b) in Part VII(**27**) (transitional addition) in paragraph 28—

(i) in sub-paragraph (1)(c) after "the relevant person" insert "satisfies the requirements of paragraph 27(1) or", and

(ii) in sub-paragraph (3)(c) after "the relevant person" insert "no longer satisfying the requirements of paragraph 27(1)(a) or".

(**25**) Part V was added by regulation 3(17)(d) of S.R. 2008 No. 378

(**26**) S.R. 1975 No. 113; regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430. Paragraph (2)(a) was substituted by regulation 2(2)(a) of S.R. 2010 No. 109

(**27**) Part VII was added by paragraph 1(5)(c) of Schedule 4 to S.R. 2010 No. 312