STATUTORY RULES OF NORTHERN IRELAND

2012 No. 121

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2012

Made - - - - 14th March 2012

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 123(1)(d) and (e), 132(3) and (4)(b), 132A(3), 133(2)(i), 134(2), and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(j) and (n), 69(4) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles, 14(4)(b) and 36(1) and (2) of the Jobseekers (Northern Ireland) Order 1995(**3**), Articles 11(6) and 74(1), (3) and (4) of the Social Security (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), and section 59 of, and paragraph 4(3) and 20(1) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**6**), section 15(1)(e) and (3) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**7**) and sections 1(2), 25(1) and (2), 28(2) and 29 of, and paragraphs 1(4)(a), 6(5) of Schedule 1 and paragraphs 1(1) and 7(1)(a) of Schedule 4 to, the Welfare Reform Act (Northern Ireland) 2007(**8**).

Regulations 6, 7 and 10 are made with the consent of the Department of Finance and Personnel(**9**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 6, 7 and 10 should not be referred to it(**10**).

(**1**) 1992 c. 7; section 123(1)(d) was substituted by paragraph 13(4) and section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and the word "and" was repealed by Schedule 3 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) 1992 c. 8; section 165(1) 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)

(**3**) 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

(**4**) 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

(**5**) *See* Article 8(b) of S.R. 1999 No. 481

(**6**) 2000 c. 4 (N.I.)

(**7**) 2002 c. 14 (N.I.)

(**8**) 2007 c. 2 (N.I.); paragraph 1(4)(a) of Schedule 1 was amended by section 12(5)(a) and (b) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.))

(**9**) *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

(**10**) S*ee* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and, subject to paragraph (2), shall come into operation on 1st April 2012.

(2) This regulation and regulations 6, 7 and 10 shall come into operation on 2nd April 2012 in relation to any case where rent is payable at intervals of a week, or any multiple of whole weeks, and in any other case on 1st April 2012.

(3) Regulations 18(2) and 19 shall come into operation on 1st May 2012.

Interpretation

2.—(1) In these Regulations—

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**11**);

"the Housing Benefit Regulations" means the Housing Benefit Regulations (Northern Ireland) 2006(**12**); and

"the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations (Northern Ireland) 2008(**13**).

(2) The Interpretation Act (Northern Ireland) 1954(**14**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

PATERNITY LEAVE AND PATERNITY PAY PAYMENTS

Amendments relating to paternity leave and paternity pay: income support

3.—(1) The Income Support Regulations are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) for the definition of "paternity leave"(**15**) substitute—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights (Northern Ireland) Order 1996(**16**) or on additional paternity leave by virtue of Article 112AA or 112BB of that Order 1996(**17**);".

(**11**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 146, S.R. 1993 No. 373, S.R. 1996 No. 199, S.R. 2002 No. 363, S.R. 2008 No. 112 and S.R. 2009 Nos. 92 and 338
(**12**) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2009 No. 92 and S.R. 2010 No. 69
(**13**) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2010 No. 346 and S.R. 2011 Nos. 357 and 434
(**14**) 1954 c.33 (N.I.)
(**15**) The definition of "paternity leave" was inserted by regulation 2(2)(b) of S.R. 2002 No. 363
(**16**) S.I. 1996/1919 (N.I.16); Articles 112A and 112B were inserted by Article 4 of the Employment (Northern Ireland) Order 2002 (S.I. 2002 No. 2836 (N.I. 2))
(**17**) Articles 112AA and 112BB were inserted by Articles 5 and 6 respectively of the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N. I. 16))

(3) In paragraph 14B of Schedule 1B(**18**) (prescribed categories of person: paternity leave)—

(a) in sub-paragraph (1) for "paternity leave" substitute "ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights (Northern Ireland) Order 1996"; and

(b) in sub-paragraph (2)(a) for "statutory paternity pay" substitute "ordinary statutory paternity pay".

(4) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 4(**19**) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay"; and

(b) in paragraph 4A(**20**) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

Amendments relating to paternity leave and paternity pay: jobseeker's allowance

4.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**21**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of "paternity leave"(**22**) substitute—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of 112A or 112B of the Employment Rights (Northern Ireland) Order 1996 or on additional paternity leave by virtue of section Article 112AA or 112BB of that Order;".

(3) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 4(**23**) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay"; and

(b) in paragraph 5(**24**) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

Amendments relating to paternity leave and paternity pay: state pension credit

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(**25**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) for the definition of "paternity leave"(**26**) substitute—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights (Northern Ireland) Order 1996 or on additional paternity leave by virtue of Article 112AA or 112BB of that Order;".

(3) In regulation 15(1) (income for the purposes of the Act) for sub-paragraph (p) substitute—

"(p) ordinary statutory paternity pay payable under Part XIIZA of the Contributions and Benefits Act(**27**);

(pa) additional statutory paternity pay payable under Part XIIZA of the Contributions and Benefits Act;".

(**18**) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199 and paragraph 14B was inserted by regulation 2(5) of S.R. 2002 No. 363
(**19**) Paragraph 4 was amended by regulation 2(6)(a) of S.R. 2002 No. 363
(**20**) Paragraph 4A was inserted by regulation 36(a) of S.R. 1988 No. 146 and amended by regulation 2(6)(b) of S.R. 2002 No. 363 and regulation 2(16)(a) of S.R. 2008 No. 112
(**21**) S.R. 1996 No. 198; relevant amending Regulation is S.R. 2002 No. 363
(**22**) The definition of "paternity leave" was inserted by regulation 3(2)(b) of S.R. 2002 No. 363
(**23**) Paragraph 4 was amended by regulation 3(5)(a) of S.R. 2002 No. 363
(**24**) Paragraph 5 was amended by regulation 3(5)(b) of S.R. 2002 No. 363
(**25**) S.R. 2003 No. 28; relevant amending Regulations are S.I. 2003 No. 2175 and S.R. 2003 No. 421
(**26**) The definition of "paternity leave" was inserted by regulation 2(2)(b) of S.R. 2003 No. 421
(**27**) Part XIIZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002

(4) In regulation 17A(2)(**28**) (earnings of employed earners) for sub-paragraph (i) substitute—

"(i) ordinary statutory paternity pay payable under Part XIIZA of the Contributions and Benefits Act;

(ia) additional statutory paternity pay payable under Part XIIZA of the Contributions and Benefits Act;".

Amendments relating to paternity leave and paternity pay: housing benefit for those not of pensionable age

6.—(1) The Housing Benefit Regulations are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) for the definition of "paternity leave" substitute—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights Order or on additional paternity leave by virtue of Article 112AA or 112BB of that Order;".

(3) In regulation 25(14) (treatment of child care charges)—

(a) in sub-paragraph (a)(iii) for "statutory paternity pay by virtue of section 167ZA or 167ZB of the Act (**29**)" substitute "ordinary statutory paternity pay by virtue of section 167ZA or 167ZB of the Act, additional statutory paternity pay by virtue of section 167ZEA or 167ZEB of the Act(**30**)"; and

(b) in sub-paragraph (b)(ii) and (iii) for "statutory paternity pay" in each place substitute "ordinary or additional statutory paternity pay".

(4) In regulation 32(1)(i) (earnings of employed earners) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

(5) In regulation 33(3)(d) (calculation of net earnings of employed earners) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

Amendments relating to paternity leave and paternity pay: housing benefit for those of pensionable age

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**31**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation) for the definition of "paternity leave" substitute—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights Order or on additional paternity leave by virtue of Article 112AA or 112BB of that Order;".

(3) In regulation 27(1)(h) (meaning of income) for head (xiv) substitute—

"(xiv) ordinary statutory paternity pay payable under Part XIIZA of the Act;

(xiva) additional statutory paternity pay payable under Part XIIZA of the Act;".

(4) In regulation 29 (treatment of child care charges)—

(a) in paragraph (14)(c) for "statutory paternity pay by virtue of 167ZA or 167ZB of the Act" substitute "ordinary statutory paternity pay by virtue of section 167ZA or 167ZB of the

(**28**) Regulation 17A was inserted by regulation 5 of S.I. 2003 No. 2175
(**29**) Sections 167ZA and 167ZB were inserted by Article 5 of the Employment (Northern Ireland) Order 2002
(**30**) Sections 167ZEA and 167ZEB were inserted by Article 8 of the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16))
(**31**) S.R. 2006 No. 406

Act, additional statutory paternity pay by virtue of section 167ZEA or 167EB of the Act"; and

(b) in paragraph (15)(b) and (c) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

(5) In regulation 33(1) (earnings of employed earners) for sub-paragraph (i) substitute—

"(i) ordinary statutory paternity pay payable under Part XIIZA of the Act;

(ia) additional statutory paternity pay payable under Part XIIZA of the Act;".

(6) In regulation 34(2)(d) (calculation of net earnings of employed earners) for "statutory paternity pay" substitute "ordinary or additional statutory paternity pay".

Amendments relating to paternity leave and paternity pay: employment and support allowance

8. In regulation 2(1) of the Employment and Support Allowance Regulations (interpretation) after the definition of "passenger" insert—

""paternity leave" means a period of absence from work on ordinary paternity leave by virtue of Article 112A or 112B of the Employment Rights Order or on additional paternity leave by virtue of Article 112AA or 112BB of that Order;";.

PART 3

AMENDMENTS RELATING TO FULL-TIME, NON-ADVANCED EDUCATION

Amendments relating to full-time, non-advanced education: income support

9. In paragraph 15A of Schedule 1B(**32**) to the Income Support Regulations (prescribed categories of person: persons under 21 with no parents, or living away from their parents, undertaking full-time, non-advanced education)—

(a) for the heading, substitute—

"Certain persons who have enrolled on, been accepted for or are undertaking full-time, non-advanced education"; and

(b) for sub-paragraphs (1) to (4) substitute—

"(1) A person who satisfies the following conditions.

(2) The first condition is that he has enrolled on, been accepted for or is undertaking a course of full-time, non-advanced education.

(3) The second condition is that he is—

(a) under the age of 21; or

(b) 21 and attained that age whilst undertaking a course of full-time, non-advanced education.

(4) The third condition is that—

(a) he has no parent;

(b) of necessity he has to live away from his parents because—

(**32**) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199; paragraph 15A was inserted by regulation 2(11)(b) of S.R. 2009 No. 92 and amended by regulation 2(13)(b) of S.R. 2009 No. 338