STATUTORY RULES OF NORTHERN IRELAND

2011 No. 291

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2011

Made - - - - 29th July 2011

Coming into operation 1st September 2011

Approved by resolution of the Assembly on 20th February 2012

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 10(1), 11(3) and (6), 13(2) and 74(3) and (5) of, and paragraph 9 of Schedule 2 to, the Social Security (Northern Ireland) Order 1998(**1**) and now vested in it(**2**), and paragraphs 3(1) and 4(3) and (5) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**) and sections 5B(6) to (11), 6(3) to (6), 7(3) and (4), 8(2) to (5), 9(1) and (2) and 10(4) of the Social Security Fraud Act (Northern Ireland) 2001(**4**) and section 33(1) of the Welfare Reform Act (Northern Ireland) 2010(**5**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 1st September 2011.

Amendment of the Social Security (Loss of Benefit) Regulations

2.—(1) The Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002(**6**) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)—

(**1**) S.I. 1998/1506 (N.I. 10); Article 13(2) was substituted by paragraph 19(3) of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

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

(**3**) 2000 (c.4 (N.I.))

(**4**) 2001 (c. 17 (N.I.)); section 5B was inserted by section 19 of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)) ("the 2010 Act"), in section 6 subsection (4A) was inserted by paragraph 33(a) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and subsection (4B) was inserted by paragraph 14(2) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), section 7(3) and (4) were amended by Paragraph 2 of Schedule 3 to the 2010 Act, section 8(2) was amended by paragraph 3(2) of Schedule 3 to the 2010 Act, subsection (4A) was inserted by paragraph 34(b) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 and subsection (4B) was inserted by paragraph 14(5) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, section 9(1) and (2) were amended by paragraph 4 of Schedule 3 to the 2010 Act and section 10(4) was amended by paragraph 5(4) of Schedule 3 to the 2010 Act

(**5**) 2010 (c. 13 (N.I.))

(**6**) S.R. 2002 No. 79; relevant amending Rules are S.R. 2003 No. 28, S.R. 2005 No. 536 and S.R. 2008 Nos. 147 (C. 7) and 286

(i) in the definition of "disqualification period"—

(aa) after "section" insert "5B(11) or", and

(bb) for "regulation 2" substitute "regulations 1A and 2";

(ii) after the definition of "disqualification period" insert—

""the determination day" means (subject to paragraph (2A)) the day on which the Department determines that a restriction under—

(a) section 5B or 6 of the Act would be applicable to the offender were the offender in receipt of a sanctionable benefit;

(b) section 7 of the Act would be applicable to the offender were the offender a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance; or

(c) section 8 of the Act would be applicable to the offender's family member were that member in receipt of income support, jobseeker's allowance, state pension credit, employment and support allowance or housing benefit;";

(iii) at the end of the definition of "the Jobseeker's Allowance Regulations" omit "and";

(iv) in the definition of "offender" after "section" insert "5B or";

(v) after the definition of "offender" add—

""pay day" in relation to a sanctionable benefit means the day on which that benefit is due to be paid; and

"relevant authority" in relation to housing benefit means the relevant authority administering the benefit of the offender or the offender's family member.";

(b) after paragraph (2) insert—

"(2A) Where, for the purposes of section 5B of the Act, the disqualifying event is an agreement to pay a penalty as referred to in section 5B(1)(b) of the Act, the determination day is the 28th day after the day referred to in the definition of that term in paragraph (2).".

(3) For regulation 2(**7**) (disqualification period) substitute—

"**Disqualification period: section 5B(11) of the Act**

1A.—(1) The first day of the disqualification period for the purposes of section 5B(11) of the Act ("DQ-day") shall be determined as follows.

(2) This paragraph applies where on the determination day—

(a) the offender is in receipt of a sanctionable benefit;

(b) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance; or

(c) the offender's family member is in receipt of income support, jobseeker's allowance, state pension credit, employment and support allowance or housing benefit.

(3) Where paragraph (2) applies and paragraph (4) does not apply (but subject to paragraph (7))—

(**7**) Regulation 2 was amended by regulation 25(2) of S.R. 2003 No. 28, Article 3(2) of S.R. 2008 No. 147 (C. 7) and regulation 29(2) of S.R. 2008 No. 286

(a) in relation to a sanctionable benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the determination day; and

(b) in relation to a sanctionable benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the determination day.

(4) This paragraph applies where on the determination day the offender or (as the case may be) the offender's family member is in receipt of—

(a) housing benefit; and

(b) no other sanctionable benefit.

(5) Where paragraph (4) applies—

(a) in relation to housing benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is notified by the relevant authority that the offender or the offender's family member is in receipt of housing benefit or has been awarded housing benefit; and

(b) in relation to housing benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is so notified by the relevant authority.

(6) Where neither paragraph (2) nor paragraph (4) applies, DQ-day is the first day after the end of the period of 28 days beginning with the determination day.

(7) Where on the determination day—

(a) paragraph (2) applies in the case of an 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 that paragraph before the first day of the disqualification period that would apply by virtue of paragraph (3),

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

Disqualification period: section 6(6) of the Act

2.—(1) The first day of the disqualification period for the purposes of section 6(6) of the Act ("DQ-day") shall be determined as follows.

(2) This paragraph applies where on the determination day—

(a) the offender is in receipt of a sanctionable benefit;

(b) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance; or

(c) the offender's family member is in receipt of income support, jobseeker's allowance, state pension credit, employment and support allowance or housing benefit.

(3) Where paragraph (2) applies and paragraph (4) does not apply—

(a) in relation to a sanctionable benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the determination day; and

(b) in relation to a sanctionable benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the determination day.

(4) This paragraph applies where on the determination day the offender or (as the case may be) the offender's family member is in receipt of—

(a) housing benefit; and

(b) no other sanctionable benefit.

(5) Where paragraph (4) applies—

(a) in relation to housing benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is notified by the relevant authority that the offender or the offender's family member is in receipt of housing benefit or has been awarded housing benefit; and

(b) in relation to housing benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is so notified by the relevant authority.

(6) Where neither paragraph (2) nor paragraph (4) applies, DQ-day is the first day after the end of the period of 28 days beginning with the determination day on which the Department decides to award—

(a) a sanctionable benefit to the offender;

(b) a joint-claim jobseeker's allowance to a joint-claim couple of which the offender is a member; or

(c) income support, jobseeker's allowance, state pension credit or employment and support allowance to the offender's family member.

(7) For the purposes of the preceding provisions of this regulation, DQ-day is to be no later than 5 years and 28 days after the date of the conviction of the offender for the benefit offence in the later proceedings referred to in section 6(1) of the Act; and section 6(9) of the Act (date of conviction and references to conviction) shall apply for the purposes of this paragraph as it applies for the purposes of section 6 of the Act.".

(4) In regulation 3(**8**) (reduction of income support and income-related employment and support allowance)—

(a) in paragraph (1) for "to (4)" substitute "and (3)";

(b) omit paragraph (4).

(5) In regulation 5(3) (meaning of "person in hardship")—

(a) after sub-paragraph (a) add "or";

(b) in sub-paragraph (b) after "Article" insert "10 or" and before "circumstances" insert "attendance, information and evidence;" and

(c) omit sub-paragraph (c) and the word "or" immediately before it.

(6) In regulation 6(2) (circumstances in which an income-based jobseeker's allowance is payable to a person who is a person in hardship) before "6(2)" insert "5B(5) or ".

(7) In regulation 7(2) (further circumstances in which an income-based jobseeker's allowance is payable to a person who is a person in hardship) before "6(2)" insert "5B(5) or".

(8) In regulation 9 (provision of information) before "6(4)(b)" insert "5B(7)(b) and".

(9) In regulation 11(**9**) (application of Part and meaning of "couple in hardship")—

(a) in paragraph (2) for "regulation 13" substitute "regulation 12";

(b) in paragraph (3) for "regulation 14" substitute "regulation 13";

(c) in paragraph (4)(b)—

(**8**) Regulation 3 was amended by regulation 29(3) of S.R. 2008 No. 286
(**9**) Paragraph 2 was amended by paragraph 28(3) of Schedule 3 to S.R. 2005 No. 536

(i) after "subject" insert "or are to be treated as subject";

(ii) after "Article" insert "10 or", and

(iii) before "denial" insert "attendance, information and evidence;".

(10) In regulation 18 (circumstances where housing benefit is payable) after "income support" insert ", an income-related employment and support allowance, state pension credit,".

(11) After regulation 19 (social security benefits not to be sanctionable benefits) insert—

"**Benefits to be treated as neither sanctionable nor disqualifying**

19A. Each of the following benefits is to be treated as neither a sanctionable benefit nor a disqualifying benefit—

(a) statutory adoption pay;

(b) statutory paternity pay;

(c) health in pregnancy grant.".

(12) In regulation 20 (deductions from benefits) before "6" insert "5B,".

Amendment of the Social Security (Credits) Regulations

3.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**10**) are amended as follows.

(2) In regulation 7A(1)(**11**) (credits for carer's allowance) after "section", in the first place it occurs, insert "5B or".

(3) In regulation 8A(2)(d)(**12**) (credits for unemployment) after "section" insert "5B,".

Amendment of the Income Support (General) Regulations

4.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**13**) are amended as follows.

(2) In Schedule 1B(**14**) (prescribed categories of person) in paragraph 4(b) (persons caring for another person) after "section" insert "5B or".

(3) In Schedule 2 (applicable amounts) in paragraph 13(5)(**15**) (severe disability premium) after "section" insert "5B or".

Amendment of the Jobseeker's Allowance Regulations

5.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**16**) are amended as follows.

(**10**) S.R. 1975 No. 113; relevant amending Regulations are S.R. 1976 No. 99, S.R. 1987 No. 153, S.R. 1988 No. 326, S.R. 1996 No. 430, S.R. 2001 No. 108, S.R. 2002 Nos. 80 and 323 and S.R. 2005 No. 536

(**11**) Regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and amended by regulation 6(a) of S.R. 1987 No. 153, regulation 2(5)(c) of S.R. 1988 No. 326, regulation 3(5)(b) of S.R. 2001 No. 108, regulation 2(3) of S.R. 2002 No. 80, paragraph 1(a) of the Schedule to S.R. 2002 No. 323 and paragraph 4(2) of Schedule 3 to S.R. 2005 No. 536

(**12**) Regulation 8A was inserted by regulation 2(6) of S.R. 1996 No. 430 and paragraph (2)(d) was added by regulation 2(4) of S.R. 2002 No. 80

(**13**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1996 No. 199, S.R. 2000 No. 74, S.R. 2002 Nos. 80 and 323 and S.R. 2007 No. 154

(**14**) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199 and paragraph 4(b) was amended by regulation 4(1) of S.R. 2000 No. 74, regulation 3(3) of S.R. 2002 No. 80 and paragraph 1(g) of the Schedule to S.R. 2002 No. 323

(**15**) Paragraph 13(5) was added by regulation 3(4) of S.R. 2002 No. 80 and amended by regulation 2(7)(e)(ii) of S.R. 2007 No. 154

(**16**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 358, S.R. 2000 No. 350, S.R. 2001 No. 120, S.R. 2002 No. 80 and S.R. 2007 No. 154