STATUTORY RULES OF NORTHERN IRELAND

# 2011 No. 135

# HOUSING; RATES; SOCIAL SECURITY

## The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2011

*Made - - - - 21st March 2011*

*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 30E(1), 122(1)(a) and (d), 131(1), 132(3) and (4)(b), 167A(2), 167D(2) and 171(1), (3) and (4), and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 2A(1) and (8), 5(1)(q), 13A(2)(a) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 6(5), 14(1) and 36(2) of, and paragraph 3 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**) and Articles 11(6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), and sections 3(2)(d) 4(2), 17(1) and (3)(b), 25(2) and 28(2) of, and paragraphs 1, 4, 9, and 10 of Schedule 2, to the Welfare Reform Act (Northern Ireland) 2007(**6**).

Regulations 12 and 13 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 12 and 13 should not be referred to it(**8**).

(**1**) 1992 c.7; section 30E(1) was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); sections 167A to 167C were inserted by Articles 4(4), 7 and 8(1) respectively, of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I.12)); section 167A was amended by paragraph 22 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) 1992 c. 8; section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) and amended by section 3(2)(b) and 29(2) and (4) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (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(a) was amended by paragraph 9(b) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, 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**) S*ee* Article 8(b) of S.R. 1999 No. 481

(**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

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2011 and, subject to paragraphs (2) and (3), shall come into operation on 11th April 2011.

(2) This regulation and regulations 12 and 13 shall come into operation on 4th April 2011 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 2011.

(3) Regulations 3(6) and (7)(a), 7(7) and (8)(c), 10, 14(10)(a), (11) and (12), so far as they relate to a particular claimant, shall come into operation on the first day of the first benefit week to commence for that claimant on or after 11th April 2011.

(4) In this regulation "benefit week" has the same meaning—

(a) for income support, as in regulation 2(1) (interpretation) of the Income Support (General) Regulations (Northern Ireland) 1987(**9**);

(b) for jobseeker's allowance, as in regulation 1(2) (citation, commencement and interpretation) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**10**); and

(c) for employment and support allowance, as in regulation 2(1) (interpretation) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**11**).

(5) The Interpretation Act (Northern Ireland) 1954(**12**) shall apply to these Regulations as it applies to an Act of the Assembly.

### Amendment of the Social Security (General Benefit) Regulations

**2.** For regulation 14 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(**13**) (earnings level for the purpose of unemployability supplement under section 58) substitute —

"**Earnings level for the purpose of unemployability supplement under section 58**

**14.**—(1) For the purpose of section 58(3) (earnings level that does not disqualify for unemployability supplement) the prescribed amount of earnings in a year is determined as follows—

(a) multiply the national minimum wage by 16;

(b) where the amount determined by the calculation in sub-paragraph (a) would, but for this sub-paragraph, include an amount of—

(i) less than 50p, the amount determined under sub-paragraph (a) shall be rounded up to the nearest 50p, or

(ii) less than £1 but more than 50p, the amount determined under sub-paragraph (a) shall be rounded up to the nearest £1; and

(c) multiply the amount resulting from sub-paragraph (a) or (b) by 52.

(**9**) S.R 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 365, S.R. 1997 No. 541, S.R. 1998 No. 81, S.R. 1999 No. 472 (C. 36), S.R. 2000 No. 367, S.R. 2001 No. 29, S.R. 2003 Nos. 195 and 338, S.R. 2005 No. 536, S.R. 2007 No. 154, S.R. 2008 Nos. 112, 406, 428 and 503, and S.R. 2009 No. 338

(**10**) S.R. 1996 No. 198; the definition of "benefit week" was substituted by regulation 3 of S.R. 2009 No. 107, other relevant amending Rules are S.R. 1997 No. 130, S.R. 1998 No. 81, S.R. 1999 No. 428 (C. 32), S.R. 2000 Nos. 350 and 367, S.R. 2001 No. 29, S.R. 2003 Nos. 195 and 338, S.R. 2005 No. 536, S.R. 2007 No. 154, S.R. 2008 Nos. 286, 406, 428, and 503, S.R. 2009 No. 338 and S.R. 2010 Nos. 103 and 347

(**11**) S.R. 2008 No. 280; relevant amending Rules are S.R. 2009 Nos. 92 and 338, S.R. 2010 Nos. 200, 311 and 347

(**12**) 1954 c. 33 (N.I.)

(**13**) S. R. 1984 No. 92; regulation 14 was amended by regulation 2 of S.R. 2010 No. 311

(2) In this regulation "national minimum wage" means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999(**14**) (rate of the national minimum wage).".

**Amendment of the Income Support (General) Regulations**

**3.**—(1) The Income Support (General) Regulations (Northern Ireland) 1987 are amended in accordance with paragraphs (2) to (7).

(2) In regulation 31 (date on which income is treated as paid)—

(a) in paragraph (1)(**15**) for "paragraphs (2) to (4) apply" substitute "paragraph (2) applies"; and

(b) omit paragraphs (3)(**16**) and (4)(**17**).

(3) In regulation 32(1)(**18**) (calculation of weekly amount of income) omit "and regulations 31(3) (date on which income is treated as paid)".

(4) In regulation 40(1)(**19**) (calculation of income other than earnings) omit "and regulation 31(3) and (4) (date on which income is treated as paid)".

(5) In regulation 54 (interpretation) in head (ii) of paragraph (e) of the definition of "payment"(**20**) after "rent" insert "or rates".

(6) In Schedule 2 (applicable amounts)—

(a) in paragraph 13A(**21**) (enhanced disability premium) after sub-paragraph (1) insert—

"(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 141A of the Contributions and Benefits Act(**22**) (entitlement after death of child or qualifying young person).''; and

(b) in paragraph 14(**23**) (disabled child premium)—

(i) at the end of sub-paragraph (1)(a) omit "or";

(ii) after sub-paragraph (1)(b) add—

"; or

(c) a child or young person in respect of whom section 141A of the Contributions and Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young

(**14**) S.I. 1999/584; regulation 11 was amended by regulation 3 of S.I. 2010/1901
(**15**) Paragraph (1) was amended by regulation 2(3)(a) of S.R. 2008 No. 428
(**16**) Paragraph (3) was substituted by regulation 2(2) of S.R. 2003 No. 338 and amended by regulation 2(3)(b) of S.R. 2008 No. 428
(**17**) Paragraph (4) was added by regulation 2(3)(c) of S.R. 2008 No. 428
(**18**) Regulation 32(1) was amended by regulation 15(a) of S.R. 1988 No. 146, regulation 10(a) of S.R. 1989 No. 365 and regulation 2(4) of S.R. 2008 No. 428
(**19**) Paragraph (1) was amended by regulation 8 of S.R. 1988 No. 431, regulation 9(1)(a) of S.R. 1998 No. 81, paragraph 8(a) of Schedule 1 to S.R. 2003 No. 195 and regulation 2(7) of S.R. 2009 No. 338
(**20**) The definition of "payment" was amended by paragraph 14 of Schedule 1 to S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies), paragraph 12(4)(b) of Schedule 3 to S.R. 2005 No. 536 and paragraph (e) was substituted by regulation 2(6)(e)(ii) of S.R. 2008 No. 406 and amended by regulation 2(9)(b)(i) of S.R. 2009 No. 338
(**21**) Paragraph 13A was inserted by regulation 2(c)(ii) of S.R. 2000 No. 367
(**22**) Section 141A was inserted by section 55 of the Tax Credits Act 2002 (c. 21) and amended by paragraph 101(2) to (4) of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 38 of Schedule 1 to the Child Benefit Act 2005 (c. 6)
(**23**) Paragraph 14 remains in operation by virtue of regulation 1(3) of S.R. 2003 No. 195 and was substituted by regulation 2(7)(g) of S.R. 2007 No. 154

person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.", and

(iii) in sub-paragraph (2), after "condition" insert "in sub-paragraph (1)(a) or (b)".

(7) In Schedule 3 (housing costs)—

(a) in paragraphs 4(4A)(b)(**24**) (housing costs not met), 14(4)(b) and (12)(c)(**25**) (linking rule) after "income" insert "equal to or"; and

(b) in paragraph 14—

(i) in sub-paragraph (1)(**26**) omit "Subject to sub-paragraph (2),", and

(ii) omit sub-paragraph (2)(**27**).

**Amendment of the Social Security (Claims and Payments) Regulations**

**4.**—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**28**) are amended in accordance with paragraphs (2) and (3).

(2) In the definition of "specified benefit"(**29**) in paragraph 1(1) of Schedule 8A(**30**) (deductions from benefits and direct payment to third parties) omit "but does not include any sum payable by way of child maintenance bonus in accordance with Article 4 of the Child Support (Northern Ireland) Order 1995 and the Social Security (Child Maintenance Bonus) Regulations (Northern Ireland) 1996;".

(3) In the definition of "relevant benefits"(**31**) in paragraph 1 of Schedule 8B(**32**) (deductions of mortgage interest from benefit and payment to qualifying lenders) omit "but does not include any sum payable by way of child maintenance bonus in accordance with Article 4 of the Child Support (Northern Ireland) Order 1995 and the Social Security (Child Maintenance Bonus) Regulations (Northern Ireland) 1996;".

**Amendment of the Social Security (Incapacity Benefit) Regulations**

**5.** For regulation 7 of the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(**33**) (limit of earnings from councillor's allowance) substitute—

"**Limit of earnings from councillor's allowance**

**7.**—(1) Subject to paragraph (3), for the purpose of section 30E(of the Contributions and Benefits Act (incapacity benefit: reduction for councillor's allowance) the prescribed amount is 16 times the national minimum wage.

(**24**) Paragraph 4(4A) was inserted by regulation 16(2) of S.R. 1997 No. 541 and amended by regulation 2(9)(b)(i) of S.R. 2008 No. 112

(**25**) Sub-paragraphs (4) and (12) have amendments which are not relevant to these Regulations

(**26**) Sub-paragraph (1) was amended by regulation 2(14)(b) of S.R. 2009 No. 338

(**27**) Paragraph 14(2) was amended by Article 7(11)(b)(iii) of S.R. 1999 No. 472 (C. 36), regulation 3(3) of S.R. 2001 No. 29, modified in relation to certain cases by regulation 9(h)(i) of S.R. 2008 No. 503 and further amended by regulation 2(14)(b) of S.R. 2009 No. 338

(**28**) S.R. 1987 No.465; relevant amending Regulations are S.R. 1988 No. 67, S.R. 1992 No. 271, S.R. 1996 Nos. 354 and 622, S.R. 2003 No. 191, S.R. 2007 Nos. 206 and 330, S.R. 2008 Nos. 286 and 413 and S.R. 2010 No. 345

(**29**) The definition of "specified benefit" was substituted by regulation 2(a)(iii) of S.R. 2007 No. 206 and amended by regulation 2(a)(ii) of S.R. 2007 No. 330 and regulation 7(a)(i) of S.R. 2008 No. 413

(**30**) Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67; paragraph 1 was amended by regulation 7 of S.R. 2008 No. 413

(**31**) The definition of "relevant benefits" was substituted by regulation 2(27)(a)(ii) of S.R. 1996 No. 354 and amended by regulation 16(2)(b) of S.R. 1996 No. 622, regulation 14(2)(b) of S.R. 2003 No. 191, regulation 13(19)(a)(i) of S.R. 2008 No. 286 and regulation 3 of S.R. 2010 No. 345

(**32**) Schedule 8B was inserted by regulation 5 of S.R 1992 No. 271

(**33**) S.R. 1994 No. 461; Regulation 7 was amended by regulation 3 of S.R. 2010 No. 311

(2) In this regulation "national minimum wage" means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage).

(3) Where the amount determined by the calculation in paragraph (1) would, but for this paragraph, include an amount of—

(a) less than 50p, that amount shall be rounded up to the nearest 50p; or

(b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.".

**Amendment of the Social Security (Incapacity for Work) (General) Regulations**

**6.**—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**34**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation), in the definition of "medical evidence"(**35**) after "medical evidence" insert ", except in regulation 16A,".

(3) In regulation 16A(**36**) (person to be treated as capable of work at the end of the period covered by medical evidence)—

(a) renumber the existing provision as paragraph (1);

(b) in that paragraph (1)(a) omit "in accordance with regulation 28(2)(a)"; and

(c) after paragraph (1) add—

"(2) In this regulation "medical evidence" means evidence provided under regulation 2 or 5 of the Medical Evidence Regulations (**37**).".

(4) In regulation 17(**38**) (exempt work)—

(a) in paragraphs (3) and (4), for "£95.00" substitute ", subject to paragraph (10), 16 times the national minimum wage";

(b) in paragraph (8) after the definition of "less than 16 hours a week" insert—

""national minimum wage" means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage);"; and

(c) after paragraph (9)(**39**) add—

"(10) Where the amount determined by the calculation in paragraphs (3) and (4) would, but for this paragraph, include an amount of—

(a) less than 50p, that amount shall be rounded up to the nearest 50p; or

(b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.".

**Amendment of the Jobseeker's Allowance Regulations**

**7.**—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996 are amended in accordance with paragraphs (2) to (8).

(**34**) S.R. 1995 No. 41; relevant amending Regulations are S.R. 1996 No. 601, S.R. 2006 No. 150 and S.R. 2010 Nos. 200 and 311
(**35**) The definition of "medical evidence" was inserted by reg. 4(2)(b) of SR 1996 No. 601 and amended by regulation 6(2) of S.R. 2010 No. 200
(**36**) Regulation 16A was inserted by regulation 6(3) of S.R. 2010 No. 200
(**37**) S.R. 1976 No. 175
(**38**) Regulation 17 was substituted by regulation 2(4) of S.R. 2006 No. 150; paragraphs (3) and (4) were amended by regulation 6(4) of S.R. 2010 No. 200 and regulation 4 of S.R. 2010 No. 311
(**39**) Paragraph (9) was added by regulation 6(4)(c) of S.R. 2010 No. 200