STATUTORY RULES OF NORTHERN IRELAND

2010 No. 69

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2010

Made - - - - 8th March 2010

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), 129(2), 131(1), 132(3) and (4), 132A(2) and (3), 133(2)(d), (f) and (i), 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(h) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 5(1)(f)(iii), 5A(1)(e)(ii), 6(5), 14(4)(a) to (c), 22B(4) and (6), and 36(2) of, and paragraphs 1(2)(b) and 8A(1) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**) and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**4**), and now vested in it(**5**), and sections 2(3)(b), 7(7)(a), 15(1)(f) and (6)(a) and (b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**6**) and sections 4(2), 17(1) and (3)(a) and (b) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**7**).

Regulations 8 and 9 are made with the consent of the Department of Finance and Personnel(**8**).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 8 and 9 should not be referred to it(**9**).

(**1**) 1992 c. 7; section 129(2) was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8); 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**) 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 5A was inserted by paragraph 5(2), and Article 22B was inserted by paragraph 14 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 N.I. 11)), Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 8A of Schedule 1 was inserted by paragraph 16(1) and (2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**4**) S.I. 1997/1183 (N.I. 12); Paragraph 8 of Schedule 1 applies to lump sum payments by virtue of Article 3A of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, which was inserted by section 8 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9)

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

(**6**) 2002 c. 14 (N.I.)

(**7**) 2007 c. 2 (N.I.)

(**8**) *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

(**9**) 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 No. 2) Regulations (Northern Ireland) 2010 and, subject to paragraphs (2) to (4), shall come into operation on 6th April 2010.

(2) This regulation shall come into operation on 1st April 2010.

(3) The following provisions shall come into operation on 5th April 2010 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 2010—

(a) regulation 8(1) to (3), (5) to (7), (9) and (10); and

(b) regulation 9(1) to (3) and (5).

(4) The following provisions shall come into operation on 13th April 2010—

(a) regulation 2(9);

(b) regulation 4(11); and

(c) regulation 6(4) and (5).

(5) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**11**) are amended in accordance with paragraphs (2) to (10).

(2) In regulation 2(1) (interpretation) after the definition of "the Macfarlane (Special Payments) (No. 2) Trust"(**12**) insert—

> ""MFET Limited" means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;".

(3) In—

(a) regulation 2(1) in the definition of "qualifying person"(**13**);

(b) regulation 42(4ZA)(a)(**14**) (notional income);

(c) regulation 48(10)(c)(**15**) (income treated as capital);

(d) regulation 51(3A)(a)(**16**) (notional capital);

(**10**) 1954 c. 33 (N.I.)

(**11**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146, 205 and 318, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201, S.R. 1993 Nos. 195 and 233, S.R. 1995 No. 367, S.R. 1996 No. 199, S.R. 1998 Nos. 2 and 326, S.R. 2000 No. 241, S.R. 2004 Nos. 213 and 389, S.R. 2005 Nos. 424, 536 and 550, S.R. 2006 No. 97 and S.R. 2007 Nos. 306 and 382 and S.R. 2008 No. 428

(**12**) The definition of "the MacFarlane (Special Payments) (No. 2) Trust" was inserted by regulation 4(2) of S.R. 1991 No. 204

(**13**) The definition of "qualifying person" was inserted by regulation 5(2)(b) of S.R. 1992 No. 201 and amended by regulation 2(a) of S.R. 2004 No. 213 and regulation 2(2)(b) of S.R. 2005 No. 550

(**14**) Regulation 42(4ZA) was inserted by regulation 2(2)(b) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(5)(a) of S.R. 2008 No. 428

(**15**) Sub-paragraph (c) was amended by regulation 4(3)(b) of S.R. 1990 No. 33, regulation 4(4) of S.R. 1991 No. 204, regulation 5(4) of S.R. 1992 No. 201, regulation 5(3)(b) of S.R. 1993 Nos. 195 and 233 and regulation 2(5)(b) of S.R. 2008 No. 428

(**16**) Paragraph (3A) was inserted by regulation 3(2)(b) and (3)(c) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(1) and 2(b) of S.R. 2004 No. 389, regulation 2(3) of S.R. 2005 No. 550 and regulation 2(5)(c) of S.R. 2008 No. 428

(e) Schedule 3 (housing costs), paragraph 18(8)(b)(**17**);

(f) Schedule 9 (sums to be disregarded in the calculation of income other than earnings), paragraph 21(2)(**18**) and paragraph 39(1)(**19**) and (7)(**20**); and

(g) Schedule 10 (capital to be disregarded), paragraph 22(1)(**21**) and (7)(**22**),

after "Eileen Trust" insert ", MFET Limited".

(4) In regulation 6(1)(c) (persons not treated as engaged in remunerative work) after "earnings)" insert "and in this paragraph "volunteer" means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work;".

(5) In regulation 13(2)(dd)(**23**) (circumstances in which persons in relevant education are to be entitled to income support) after "and their families)" insert "or Part II of the Children (Scotland) Act 1995 (promotion of children's welfare by local authorities and by children's hearings etc.)".

(6) In regulation 42 in—

(a) paragraph (2)(g)(**24**) for "is aged under 60" substitute "has not attained the qualifying age for state pension credit";

(b) paragraph (2ZA)(**25**) for "age of 60" substitute "qualifying age for state pension credit"; and

(c) paragraph (2A)(**26**) for "aged not less than 60" substitute "who has attained the qualifying age for state pension credit".

(7) In—

(a) regulation 42(4ZA)(a);

(b) regulation 48(10)(c);

(c) regulation 51(3A)(a);

(d) Schedule 3, paragraph 18(8)(b) where it first occurs;

(e) Schedule 9, paragraph 39(1) to (5)(**27**); and

(f) Schedule 10, paragraphs 22(1) to (5)(**28**) and 29(**29**),

(**17**) Sub-paragraph (b) was amended by regulation 2(5)(e) of S.R. 2008 No. 428

(**18**) Paragraph 21 was substituted by regulation 3(6)(d) of S.R. 1988 No. 146 and sub-paragraph (2) was amended by regulation 5(d) of S.R. 1988 No. 205, regulation 4(3)(e) of S.R. 1990 No. 33, regulation 4(7)(a) of S.R. 1991 No. 204, regulation 5(7)(a) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(a) of S.R. 1993 No. 233 and regulation 2(5)(f) of S.R. 2008 No. 428

(**19**) Paragraph 39(1) was substituted by regulation 4(7)(b) of S.R. 1991 No. 204 and amended by regulation 5(7)(b)(i) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(b)(i) of S.R. 1993 No. 233 and regulation 2(5)(f) of S.R. 2008 No. 428

(**20**) Sub-paragraph (7) was added by regulation 5(7)(b)(vi) of S.R. 1992 No. 201 and amended by regulation 2(3) and (4) of S.R. 2004 No. 389 and regulation 2(4) of S.R. 2005 No. 550

(**21**) Paragraph 22 was substituted by regulation 4(8)(a) of S.R. 1991 No. 204, sub-paragraph (1) was amended by regulation 5(8)(a)(i) of S.R. 1992 No. 201, regulation 5(5)(a) of S.R. 1993 No. 233, regulation 3(1) and (2)(b) of S.R. 2004 No. 213, regulation 2(5)(a)(i) of S.R. 2005 No. 550 and regulation 2(5)(g) of S.R. 2008 No. 428

(**22**) Sub-paragraph (7) was added by regulation 5(8)(a)(vi) of S.R. 1992 No. 201 and amended by regulation 3(4)(b) of S.R. 2004 No. 213 and regulation 2(5)(a)(ii) of S.R. 2005 No. 550

(**23**) Sub-paragraph (dd) was substituted by regulation 2(2)(a) of S.R. 1998 No. 2

(**24**) Paragraph (2)(g) was added by regulation 2(4)(a) of S.R. 1995 No. 367 and amended by regulation 2(3)(a) of S.R. 2005 No. 424, regulation 2(2)(a) of S.R. 2006 No. 97 and regulation 3(6)(a) of S.R. 2007 No. 306

(**25**) Paragraph (2ZA) was inserted by regulation 2(3)(b) of S.R. 2005 No. 424 and amended by regulation 2(2)(b) of S.R. 2006 No. 97 and regulation 3(6)(b) of S.R. 2007 No. 306

(**26**) Paragraph (2A) was substituted by regulation 3(6)(c) of S.R. 2007 No. 306

(**27**) Sub-paragraphs (2) to (5) were amended by regulation 5(7)(b) of S.R. 1992 No. 201 and paragraph 12(8)(b) of Schedule 3 to S.R. 2005 No. 536, sub-paragraphs (4) and (5) were also amended by regulation 3(5) and the Schedule to S.R.2000 No. 241

(**28**) Sub-paragraphs (2) to (5) were amended by regulation 5(8)(a) of S.R. 1992 No. 201 and paragraph 12(9)(b) of Schedule 3 to S.R. 2005 No. 536, sub-paragraphs (4) and (5) were also amended by regulation 3(5) and the Schedule to S.R.2000 No. 241

after "under" insert "or by".

(8) In regulation 51 in paragraph (2)(da)(**30**) for "is aged under 60" substitute "has not attained the qualifying age for state pension credit".

(9) In Schedule 2 (applicable amounts) in paragraph 1(3)(a)(ii), paragraph 1(3)(e)(i), paragraph 1(3)(f)(i) and paragraph 1(3)(g)(i)(**31**) after "regulation 4ZA" insert "or income-related employment and support allowance".

(10) In Schedule 10 in paragraph 29 after "the Fund" insert ", MFET Limited".

Amendment of the Social Security (Claims and Payments) Regulations

3. In regulation 7 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**32**) (evidence and information) in paragraph (4)(**33**) for "is aged not less than 60", substitute "has attained the qualifying age".

Amendment of the Jobseeker's Allowance Regulations

4.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**34**) are amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of "maternity leave"(**35**) insert—

> ""MFET Limited" means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;".

(3) In—

(a) regulation 1(2) in the definition of "qualifying person"(**36**);

(b) regulation 105(10A)(a)(**37**) (notional income);

(c) regulation 110(10)(c)(**38**) (income treated as capital);

(d) regulation 113(3A)(a)(**39**) (notional capital);

(e) Schedule 2 (housing costs), paragraph 17(8)(b)(**40**) (non-dependant deductions);

(f) Schedule 6 (sums to be disregarded in the calculation of income other than earnings), paragraph 22(2)(**41**); and

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(**29**) Paragraph 29 was added by regulation 25 of S.R. 1988 No. 318 and amended by regulation 4(4) of S.R. 1990 No. 33, regulation 5(8)(b) of S.R. 1992 No. 201, regulation 5(4) of S.R. 1993 No. 195, Article 2(3) of S.R. 2007 No. 382 and regulation 2(10) of S.R. 2008 No. 428

(**30**) Sub-paragraph (da) was inserted by regulation 2(5) of S.R. 2005 No. 424 and amended by regulation 2(3)(a) of S.R. 2006 No. 97

(**31**) Sub-paragraph (3) was substituted by paragraph 3 of Schedule 2 to S.R. 1996 No. 199

(**32**) S.R. 1987 No. 465; relevant amending Regulations are regulation 5(3) of S.R.1995 No. 367, regulation 2(6)(b) of S.R. 1996 No. 354, regulation 5(b) of S.R. 2003 No. 191 and regulation 13(7) of S.R. 2008 No. 286

(**33**) Paragraph (4) was added by regulation 5(3) of S.R. 1995 No. 367

(**34**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1998 No. 326, S.R. 2000 No. 350, S.R. 2002 Nos. 236 and 332, S.R. 2004 Nos. 213 and 389, S.R. 2005 Nos. 424, 536 and 550, S.R. 2006 No. 97, S.R. 2007 Nos. 306 and 396, S.R. 2008 No. 428

(**35**) The definition of "maternity leave" was amended by regulation 7(2)(b) of S.R. 2007 No. 396

(**36**) The definition of "qualifying person" was amended by regulation 2(a) of S.R. 2004 No. 213 and regulation 4(2)(b) of S.R. 2005 No. 550

(**37**) Paragraph (10A) was inserted by regulation 2(1)(b) of S.R. 1998 No. 326 and amended by regulation 4(5)(a) of S.R. 2008 No. 428

(**38**) Sub-paragraph (c) was amended by regulation 4(5)(b) of S.R. 2008 No. 428

(**39**) Paragraph (3A) was inserted by regulation 3(1)(b) of S.R. 1998 No. 326; sub-paragraph (a) was amended by regulation 2(1) and (c) of S.R. 2004 No. 389, regulation 4(3) of S.R.2005 No. 550 and regulation 4(5)(c) of S.R. 2008 No. 428

(**40**) Head (b) was amended by regulation 4(5)(e) of S.R. 2008 No. 428

(**41**) Sub-paragraph (2) was amended by regulation 4(5)(f) of S.R. 2008 No. 428

(g) Schedule 7 (capital to be disregarded), paragraphs 27(1)(**42**) and 31(**43**),

after "Eileen Trust" insert ", MFET Limited".

(4) In regulation 3E(2)(i)(**44**) (entitlement of a member of a joint-claim couple to a jobseeker's allowance without a claim being made jointly by the couple) for "7 weeks after the date on which the pregnancy ends where the expected week of confinement begins prior to 6th April 2003 or fifteen weeks after the date on which her pregnancy ends where the expected week of confinement begins on or after 6th April 2003", substitute "28 weeks after the date on which the pregnancy ends".

(5) In regulation 53(a) (persons treated as not engaged in remunerative work) after "earnings)" insert "and in this paragraph "volunteer" means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work;".

(6) In regulation 57(4)(a) (interpretation of Part IV), subject to paragraph (13), omit—

(a) paragraph 10 (disabled students);

(b) paragraph 12 (deaf students); and

(c) paragraph 13 (blind persons).

(7) In regulation 105 in—

(a) paragraph (2)(g)(**45**) for "is aged under 60" substitute "has not attained the qualifying age for state pension credit";

(b) paragraph (2B)(**46**) for "age of 60" substitute "qualifying age for state pension credit";

(c) paragraph (3)(**47**) for "aged not less than 60" substitute " who has attained the qualifying age for state pension credit".

(8) In—

(a) regulation 105(10A)(a);

(b) regulation 110(10)(c);

(c) regulation 113(3A)(a);

(d) Schedule 2, paragraph 17(8)(b) where it first occurs;

(e) Schedule 6, paragraph 41(1) to (5)(**48**); and

(f) Schedule 7, paragraphs 27(1) to (5)(**49**) and 31,

after "under" insert "or by".

(9) In regulation 113(2)(da)(**50**) for "is aged under 60" substitute "has not attained the qualifying age for state pension credit".

(10) In regulation 130 (interpretation) after the definition of "grant income" insert—

(**42**) Paragraph 27(1) was amended by regulation 3(5) and (6)(b) of S.R. 2004 No. 213, regulation 4(5)(a) of S.R. 2005 No. 550 and regulation 4(5)(g) of S.R. 2008 No. 428

(**43**) Paragraph 31 was amended by regulation 4(5)(g) of S.R. 2008 No. 428

(**44**) Regulation 3E was inserted by regulation 2(2) of S.R. 2000 No. 350; paragraph (2) was amended by regulation 2(b)(i) of S.R. 2002 No. 236 and sub-paragraph (i) was amended by regulation 3 of S.R. 2002 No. 332

(**45**) Sub-paragraph (g) was amended by regulation 4(2)(a) of S.R. 2006 No. 97

(**46**) Paragraph (2B) was inserted by regulation 4(b) of S.R. 2005 No. 424

(**47**) Paragraph (3) was substituted by regulation 4(4)(a) of S.R. 2007 No. 306

(**48**) Sub-paragraph (1) was amended by regulation 4(5)(f) of S.R.2008 No. 428 and sub-paragraphs (2) to (5) were amended by paragraph 23(12)(b) of Schedule 3 to S.R. 2005 No. 536

(**49**) Sub-paragraph (1) was amended by regulation 3(5) and (6)(b) of S.R. 2004 No. 213, regulation 4(5)(a) of S.R. 2005 No. 550 and regulation 4(5)(g) of S.R. 2008 No. 428 and sub-paragraphs (2) to (5) were amended by paragraph 23(13)(c) of Schedule 3 to S.R. 2005 No. 536

(**50**) Sub-paragraph (da) was inserted by regulation 4(5) of S.R. 2005 No. 424 and amended by regulation 4(3)(a) of S.R. 2006 No. 97