STATUTORY RULES OF NORTHERN IRELAND

2010 No. 6

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2010

Made - - - - 13th January 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), 123(1)(e), 131(1), 132(3) and (4)(a), (b) and (c) 133(2)(d) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 6(5), 14(1), (2) and (4)(a), (b) and (c), 15 and 36(2) of, and paragraphs 1(2)(b) and 8A, of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**2**), sections 115(3), (4) and (8), of the Immigration and Asylum Act 1999(**3**), and now vested in it(**4**), and sections 17(1), (2) and (3)(a), (b) and (c) and 25(2) of, and paragraph 6(3)(b) of Schedule 1 to, the Welfare Reform Act (Northern Ireland) 2007(**5**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2010.

(2) Subject to paragraph (3), these Regulations come into operation on 25th January 2010.

(3) Regulations 2(1) and 3(2)(c) and (d) and (5)(a), so far as they relate to a particular beneficiary who is not a person falling within regulation 2(2), come into operation on the first day of the first benefit week to commence for that beneficiary on or after 25th January 2010.

(4) In this regulation—

"benefit week"—

(**1**) 1992 c. 7; 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13(5) of Schedule 2 to, the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and the word "and" was repealed by Schedule 3 to, the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2, to the Jobseekers (Northern Ireland) Order 1995, 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 15 was amended by paragraph 10 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 (S.I. 1999/671), paragraph 8A was inserted by paragraph 16(2) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**3**) 1999 c. 33

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

(**5**) 2007 c. 2 (N.I.)

(a) in relation to income support, has the same meaning as in regulation 2(1)(**6**) (interpretation) of the Income Support (General) Regulations (Northern Ireland) 1987(**7**);

(b) in relation to a jobseeker's allowance, has the same meaning as in regulation 1(2)(**8**) (interpretation) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**9**);

(c) in relation to an employment and support allowance, has the same meaning as in regulation 2(1) (interpretation) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**10**);

"the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations (Northern Ireland) 2008;

"the Immigration and Asylum Regulations" means the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000(**11**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987, and

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996.

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

Abolition (subject to savings) of urgent case payments

2.—(1) Subject to paragraphs (2) to (4), the following provisions are omitted—

(a) Part VI of the Income Support Regulations (urgent cases);

(b) Part X of the Jobseeker's Allowance Regulations (urgent cases);

(c) regulation 11(3) of the Immigration and Asylum Regulations (transitional arrangements and savings);

(d) Part 13 of the Employment and Support Allowance Regulations (urgent cases).

(2) The provisions referred to in paragraph (1) ("the relevant provisions") continue to have effect in relation to a person who, on the day before the day on which these Regulations come into operation, is a person ("P") to whom regulation 70(2)(b) of the Income Support Regulations, regulation 147(2)(b) of the Jobseeker's Allowance Regulations or (as the case may be) regulation 162(2) of the Employment and Support Allowance Regulations applies.

(3) Where on the day before the day on which these Regulations come into operation P falls within paragraph 1 of Part 1 of the Schedule to the Immigration and Asylum Regulations, the relevant provisions continue to have effect in relation to P until—

(a) the expiry of the period, or the aggregate of any periods, of 42 days during any one period of leave to which paragraph 1 of Part 1 of that Schedule applies, or

(b) the day on which P no longer falls within paragraph 1 of Part 1 of that Schedule,

whichever shall first occur.

(**6**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**7**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 193, 274 and 318, S.R. 1989 No. 249, S.R. 1996 No. 199, S.R. 2000 Nos. 71 and 350, S.R. 2002 No. 132, S.R. 2003 Nos. 195 and 267 and S.R. 2006 No. 97
(**8**) The definition of "benefit week" was amended by regulation 2(2) of S.R. 1996 No. 358, regulation 2(2)(a) of S.R. 1996 No. 503, regulation 13(2) of S.R. 2006 No. 359 and regulation 3 of S.R. 2009 No. 107
(**9**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 2000 No. 350, S.R. 2002 No. 132, S.R. 2003 Nos. 195 and 267, S.R. 2006 No. 359 and S.R. 2009 No. 107
(**10**) S.R. 2008 No. 280
(**11**) S.R. 2000 No. 71; relevant amending Regulations are S.R. 2003 No. 421 and S.R. 2008 No. 286
(**12**) 1954 c. 33 (N.I.)

(4) In any other case, the relevant provisions continue to have effect in relation to P until the day on which regulation 70(2)(b) of the Income Support Regulations, regulation 147(2)(b) of the Jobseeker's Allowance Regulations or (as the case may be) regulation 162(2) of the Employment and Support Allowance Regulations ceases to apply to P.

Abolition of urgent case payments: supplementary provisions

3.—(1) The following consequential amendments have effect.

(2) In the Income Support Regulations—

(a) in regulation 17(1)(**13**) (applicable amounts) omit "and 70" and "and urgent cases";

(b) in regulation 18(1)(**14**) (polygamous marriages) omit "and 70" and "and urgent cases";

(c) after regulation 22A(**15**) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) insert —

"**Period for which applicable amount is to be calculated where person not excluded from income support under section 115 of the Immigration and Asylum Act**

22B. Where paragraph 1 of Part 1 of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000(**16**) applies in respect of entitlement to income support, the period for which a claimant's weekly applicable amount is to be calculated shall be any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that paragraph of that Part of the Schedule to those Regulations applies.";

(d) in Schedule 1B(**17**) (prescribed categories of person), for paragraph 21(**18**) (persons from abroad) substitute—

"**Persons from abroad**

21. A person not excluded from entitlement to income support under section 115 of the Immigration and Asylum Act by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 except for a person to whom paragraphs 2, 3 and 4 of Part 1 of the Schedule to those Regulations applies.".

(3) In the Jobseeker's Allowance Regulations—

(a) in regulation 83(**19**) (applicable amounts) omit "or Part X" and "and urgent cases";

(b) in regulation 84(1)(**20**) (polygamous marriages) omit "or Part X (urgent cases)";

(**13**) Regulation 17(1) was amended by regulation 2 of S.R. 1988 No. 193, regulation 9 of S.R. 1996 No. 199, paragraph 2(a) of Schedule 1 to, S.R. 2003 No. 195, regulation 2(3) of S.R. 2003 No. 267 and regulation 2(4)(a) of S.R. 2006 No. 97

(**14**) Regulation 18(1) was amended by regulation 5(a) of S.R. 1988 No. 274, regulation 5 of S.R. 1988 No. 318, regulation 5 of S.R. 1989 No. 249, regulation 10(a)(ii) of S.R. 1996 No. 199, paragraph 4 of Part I of the Schedule to, S.R. 2002 No. 132, paragraph 3(a) of Schedule 1 to S.R. 2003 No. 195, regulation 2(4) of S.R. 2003 No. 267 and regulation 2(4)(b) of S.R. 2006 No. 97

(**15**) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199

(**16**) S.R. 2000 No. 71

(**17**) Schedule 1B was inserted by Schedule 1 to S.R. 1996 No. 199

(**18**) Paragraph 21 was amended by regulation 5(9)(b) of S.R. 2000 No. 71

(**19**) Regulation 83 was amended by paragraph 4 of Part II of the Schedule to S.R. 2002 No. 132, paragraph 2(a) of Schedule 2 to S.R. 2003 No. 195 and regulation 4(3) of S.R. 2003 No. 267

(**20**) Regulation 84(1) was amended by paragraph 5 of Part II of the Schedule to, S.R. 2002 No. 132, paragraph 3(a) of Schedule 2 to S.R. 2003 No. 195 and regulation 4(4) of S.R. 2003 No. 267

(c) in regulation 86A(**21**) (applicable amounts for joint-claim couples) omit "or Part X (urgent cases)";

(d) in regulation 86B(**22**) (applicable amounts for joint-claim couples: polygamous marriages) omit "or Part X (urgent cases)".

(4) In the Employment and Support Allowance Regulations—

(a) in regulation 67(1) (prescribed amounts) omit "and 163" and "and urgent cases";

(b) in regulation 68(1) (polygamous marriages) for "regulations 69 and 163 (special cases and urgent cases)" substitute "regulation 69 (special cases)".

(5) In regulation 2 of the Immigration and Asylum Regulations (persons not excluded from specified benefits under section 115 of the Act)—

(a) for paragraph (5)(**23**) substitute—

"(5) For the purposes of entitlement to income support, a jobseeker's allowance, an employment and support allowance or a social fund payment under the Contributions and Benefits Act, as the case may be, a person who is an asylum seeker within the meaning of paragraph (5) of regulation 11 who has not ceased to be an asylum seeker by virtue of paragraph (6) of that regulation is a person to whom section 115 of the Act does not apply.";

(b) in paragraph (8)(**24**), for "state pension credit, the period for which a claimant's state pension credit" substitute "state pension credit, or income-related employment and support allowance, as the case may be, the period for which a claimant's state pension credit, or income-related employment and support allowance, as the case may be,".

Revocation (subject to savings) of provisions specifying that certain persons are to be treated as not engaged in remunerative work

4.—(1) Subject to paragraphs (3) to (7), the following provisions are omitted—

(a) in the Income Support Regulations—

(i) regulation 6(4)(a) and (d) (persons not treated as engaged in remunerative work), and

(ii) paragraphs 8 and 9 of Schedule 1B (prescribed categories of persons);

(b) in the Jobseeker's Allowance Regulations—

(i) regulation 53(c) and (h) (persons treated as not engaged in remunerative work), and

(ii) paragraphs 7 and 8 of Schedule A1(**25**) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order);

(c) regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations (circumstances under which partners of claimants entitled to an income-related allowance are not to be treated as engaged in remunerative work).

(2) Regulations 20 to 22 (saving provision, circumstances in which regulation 20 ceases to apply and permitted period) of the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991(**26**) are also omitted.

(**21**) Regulation 86A was inserted by paragraph 35 of Schedule 2 to S.R. 2000 No. 350 and amended by paragraph 8 of Part II of the Schedule to, S.R. 2002 No. 132 and regulation 4(6) of S.R. 2003 No. 267

(**22**) Regulation 86B was inserted by paragraph 35 of Schedule 2 to S.R. 2000 No. 350 and amended by regulation 4(7) of S.R. 2003 No. 267

(**23**) Paragraph (5) was amended by regulation 23(3)(c) of S.R. 2008 No. 286

(**24**) Paragraph (8) was inserted by regulation 6(c) of S.R. 2003 No. 421

(**25**) Schedule A1 was inserted by Schedule 1 to S.R. 2000 No. 350

(**26**) S.R. 1991 No. 338

(3) Paragraphs (4) to (6) apply to a person ("P") who in respect of a period which includes the day before the date on which these Regulations come into operation—

(a) is entitled to a specified benefit (irrespective of whether P claims the benefit before, on or after that day), and

(b) falls within one of the provisions referred to in paragraph (1).

(4) Where the specified benefit is income support, regulation 6(4)(a) and (d) of, and paragraphs 8 and 9 of Schedule 1B to, the Income Support Regulations continue to have effect in relation to P's entitlement to that benefit.

(5) Where the specified benefit is a jobseeker's allowance, regulation 53(c) and (h) of, and paragraphs 7 and 8 of Schedule A1 to, the Jobseeker's Allowance Regulations continue to have effect in relation to P's entitlement to that benefit.

(6) Where the specified benefit is an employment and support allowance, regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations continue to have effect in relation to P's entitlement to that benefit.

(7) The provisions saved by paragraphs (4), (5) and (6) continue to have effect in relation to P's entitlement to the specified benefit until the day on which—

(a) P first ceases to fall within a provision referred to in paragraph (1), or,

(b) P first ceases to be entitled to that benefit,

whichever shall first occur.

(8) In this regulation "specified benefit" means income support, a jobseeker's allowance or an employment and support allowance.

Revocations

5.—(1) Subject to paragraphs (2) to (4) of regulation 2, the provisions specified in column (1), of Part 1 of the Schedule are revoked to the extent specified in column (3).

(2) Subject to paragraphs (3) to (7) of regulation 4, the provisions specified in column (1), of Part 2 of the Schedule are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 13th January 2010

Anne McCleary
A senior officer of the Department for Social Development