STATUTORY RULES OF NORTHERN IRELAND

2009 No. 338

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2009

Made - - - - 5th October 2009

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), 132A(3), 133(2)(f) and (h) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(b) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 5(1)(f)(iii), 5A(1)(e)(ii), 6(5), 14(1), (2) and (4)(a) and (b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**), sections 5, 15(3) and (6)(a) and (b) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002(**5**) and sections 4(1) and (2)(a) , 12(1), (2)(h) and (7), 17(1), (2) and (3)(a) and (b), 18(4) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**6**).

Regulations 6 and 7 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 6 and 7 should not be referred to it(**8**).

(**1**) 1992 c. 7; section 123(1)(d) was substituted by paragraph 13(4) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 and the word "and" was repealed by Schedule 3 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax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) and section 165(6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(**3**) S.I. 1995/2705 (N.I. 15); Article 5A was inserted by paragraph 5(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (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

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

(**5**) 2002 c. 14 (N.I.); section 5 was amended by paragraph 148 of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**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)); *see also* 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 (c. 8)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2009 and subject to paragraphs (2) to (5) shall come into operation on 26th October 2009.

(2) The following provisions shall come into operation, in so far as they relate to a particular claimant, on the first day of the first benefit week to commence for that claimant on or after 26th October 2009—

(a) regulation 2(2), (6), (8), (15) and (16)(a) to (c);

(b) regulation 4(2), (6), (8), (14) and (15)(a) to (d);

(c) regulation 5; and

(d) regulation 8(2), (6), (8) to (10), (17) and (18)(a) to (c).

(3) Regulation 6(2) to (6)(c) and 7 come into operation on 2nd November 2009.

(4) Regulation 6(6)(d) comes into operation—

(a) in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, on 5th April 2010; and

(b) in any other case on 1st April 2010.

(5) The following provisions come into operation, in so far as they relate to a particular claimant, on the first day of the first benefit week to commence for that claimant on or after 12th April 2010—

(a) regulation 2(4), (5), (9) to (11), (14)(b) and (16)(d);

(b) regulation 4(4), (5), (9) to (11), (13) and (15)(e); and

(c) regulation 8(4), (5), (11) to (13), (16)(b) and (18)(d).

(6) In this regulation "benefit week" has the same meaning as in—

(a) regulation 2(1)(**9**) of the Income Support (General) Regulations (Northern Ireland) 1987(**10**), in so far as it relates to regulations 2(4) to (6), (8), (9) to (11), (14)(b), (15) and (16);

(b) regulation 1(2)(**11**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**12**), in so far as it relates to regulations 4(4) to (6), (8) to (11) and (13) to (15);

(c) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(**13**), in so far as it relates to regulation 5; and

(d) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**14**) in so far as it relates to regulations 8(2), (4) to (6), (8) to (13), (16)(b), (17) and (18).

(7) The Interpretation Act (Northern Ireland) 1954(**15**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**9**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318

(**10**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 No. 318, S.R. 1989 No. 366, S.R. 1995 Nos. 86, 301 and 367, S.R.1996 Nos. 199 and 202, S.R. 1997 No. 130 and 331, S.R. 1998 Nos. 81 and 431, S.R. 1999 No 472 (C. 36), S.R. 2000 No. 242, S.R. 2001 Nos. 29, 258 and 278, S.R. 2003 No. 195, S.R. 2004 Nos. 16 and 163, S.R. 2005 Nos. 98, 424 and 536, S.R. 2006 No. 97, S.R. 2007 Nos. 306 and 396, S.R. 2008 Nos. 406, 428, 498 and 503 and S.R. 2009 No. 92

(**11**) The definition of "benefit week" was substituted by regulation 3 of S.R. 2009 No. 107

(**12**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1997 Nos. 130 and 331, S.R. 1998 No. 81, S.R. 1999 No. 428 (C. 32), S.R. 2000 No. 242, S.R. 2001 Nos. 29 and 278, S.R. 2003 No. 195, S.R. 2004 Nos. 16 and 163, S.R. 2005 No. 458, S.R. 2006 No. 97, S.R. 2007 Nos. 306 and 396, S.R. 2008 Nos. 406, 428, 498 and 503 and S.R. 2009 No. 92

(**13**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 191, S.I. 2003/2175, S.R. 2005 No. 98, S.R. 2006 No. 104 and S.R. 2008 No. 498

(**14**) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2008 Nos. 413, 498 and 503 and S.R. 2009 No. 92

(**15**) 1954 c. 33 (N.I.)

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 are amended in accordance with paragraphs (2) to (16).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "polygamous marriage"(**16**) insert—

> ""public authority" has the meaning given in section 75(3) of the Northern Ireland Act 1998(**17**);"; and

(b) after the definition of "self-employment route"(**18**) insert—

> ""service user group" means a group of individuals that is consulted by or on behalf of—
>
> (a) a public authority under section 49A of the Disability Discrimination Act 1995(**19**),
>
> (b) a council under section 1 of the Local Government (Best Value) Act (Northern Ireland) 2002(**20**),
>
> (c) the Patient and Client Council under section 16 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(**21**),
>
> (d) a body to which sections 17 to 19 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 applies,
>
> (e) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under section 108 of the Health and Social Care Act 2008(**22**),
>
> (f) any other public authority in Northern Ireland in consequence of a function conferred under any statutory provision,
>
> for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;.".

(3) In regulation 13 (circumstances in which persons in relevant education are to be entitled to income support) omit paragraph (3)(b)(ii)(**23**).

(4) In the headings to regulations 25 (child maintenance or liable relative payments), 55 (treatment of child maintenance or liable relative payments), 58 (calculation of the weekly amount of a child maintenance or liable relative payment) and 59(**24**) (date on which a child maintenance or liable relative payment is to be treated as paid) omit "child maintenance or".

(5) In regulation 25(**25**) and the heading to Chapter VII of Part V(**26**) (child maintenance and liable relative payments) omit "child maintenance and".

(6) After regulation 35(2)(e)(**27**) (earnings of employed earners) add—

(**16**) The definition of "polygamous marriage" was substituted by regulation 2(c) of S.R. 1998 No. 431
(**17**) 1998 c. 47
(**18**) The definition of "self employment route" was substituted by regulation 2 of S.R. 2004 No. 163
(**19**) 1995 c. 50; section 49A was inserted by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1))
(**20**) 2002 c. 4 (N. I.)
(**21**) 2009 c. 1 (N. I.)
(**22**) 2008 c. 14
(**23**) Paragraph 3(b)(ii) was amended by regulation 2(3) of S.R. 2008 No. 498
(**24**) The headings to regulations 25, 55, 58 and 59 were amended by regulation 2(2) of S.R. 2008 No. 406
(**25**) Regulation 25 was amended by paragraph 7 of Schedule 1 to S.R. 2003 No. 195 and regulation 2(3) of S.R. 2008 No. 406
(**26**) The heading to Chapter VII was substituted by regulation 2(5) of S.R. 2008 No. 406
(**27**) Regulation 35(2)(e) was added by regulation 4(a) of S.R. 1997 No. 130

"(f) any payment in respect of expenses arising out of the claimant's participation in a service user group.".

(7) In regulation 40(1)(**28**) (calculation of income other than earnings) after "earnings)" insert "and regulation 31(3)(**29**) and (4)(**30**) (date on which income is treated as paid)".

(8) In regulation 42 (notional income)—

(a) after paragraph (2)(g)(**31**) insert—

"(ga) any sum to which paragraph (8ZA) applies;"; and

(b) after paragraph (8)(**32**) add—

"(8ZA) Paragraphs (1), (2), (3), (4), (5) and (6) shall not apply in respect of a payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the claimant's participation in a service user group.".

(9) In regulation 54 (interpretation)—

(a) omit the definition of "child maintenance"(**33**);

(b) in the definition of "payment"(**34**)—

(i) in paragraph (e)(i) for "family" substitute "partner or is made or derived from a person falling within paragraph (d) of the definition of liable relative", and

(ii) after paragraph (h) insert—

"(i) to which paragraph 69 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) applies."; and

(c) in paragraph (c) of the definition of "periodical payment"(**35**) omit ", after the appropriate disregard under paragraph 69 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) has been applied to it,".

(10) In regulation 55(**36**) (treatment of child maintenance or liable relative payments) omit "and paragraph 69 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings)".

(11) In regulation 57(**37**) (period over which payments other than periodical payments are to be taken into account)—

(a) in paragraph (3) omit sub-paragraph (b) and the preceding "and"; and

(b) in paragraph (10) omit "and, where applicable, the maximum disregard under paragraph 69 of Schedule 9".

(12) In regulation 61(1) (interpretation) in the definition of "access funds"(**38**)—

(a) in paragraph (b) for "7" substitute "68"; and

(**28**) Paragraph (1) was amended by regulation 8 of S.R. 1988 No. 431, regulation 9(1)(a) of S.R. 1998 No. 81 and paragraph 8(a) of Schedule 1 to S.R. 2003 No. 195
(**29**) Regulation 31(3) was amended by regulation 2(3)(b) of S.R. 2008 No. 428
(**30**) Regulation 31(4) was added by regulation 2(3)(c) of S.R. 2008 No. 428
(**31**) 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
(**32**) Paragraph (8) has amendments which are not relevant to these Regulations
(**33**) The definition of "child maintenance" was inserted by regulation 2(6)(a) of S.R. 2008 No. 406
(**34**) 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 regulation 2(6)(e) of S.R. 2008 No. 406
(**35**) Paragraph (c) was amended by regulation 2(6)(f)(ii) of S.R. 2008 No. 406
(**36**) Regulation 55 was amended by regulation 6(2) of S.R 1996 No. 202 and regulation 2(7) of S.R. 2008 No. 406
(**37**) Regulation 57 was substituted by regulation 2(8) of S.R. 2008 No. 406
(**38**) The definition of "access funds" was inserted by regulation 2(2)(a) of S.R. 2000 No. 242 and paragraph (b) was amended by regulation 2(1)(b)(i) of S.R. 2001 No. 278

(b) omit "and described as "learner support funds" or grants made under section 68 of that Act".

(13) In Schedule 1B(**39**) (prescribed categories of person)—

(a) after paragraph 2 insert—

"**Single persons looking after children placed with them prior to adoption**

2A. A single claimant or a lone parent with whom a child is placed for adoption pursuant to a decision under the Adoption Agencies Regulations (Northern Ireland) 1989(**40**).''; and

(b) in paragraph 15A(**41**)—

(i) for the heading substitute—

"Persons under 21 with no parents, or living away from their parents, undertaking full-time, non-advanced education", and

(ii) for sub-paragraph (1) substitute—

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

(14) In Schedule 3(**42**) (housing costs)—

(a) after paragraph 3(13)(b) (circumstances in which a person is to be treated as occupying a dwelling as his home) insert—

"(ba) "period of study" has the meaning given in regulation 61(1) (interpretation);"; and

(b) in paragraph 14(2)(**43**) (linking rule) for "has ceased" substitute "ceases on or before 11 April 2010".

(15) In Schedule 8 (sums to be disregarded in the calculation of earnings)—

(a) in paragraphs 1(1)(b)(**44**) for "regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e))" substitute "sub-paragraph (2)(a) or (b)(ii)";

(b) for paragraph 1(2)(a) substitute—

"(a) any payment of the nature described in—

(i) regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e)), or

(ii) Article 60, 96 or 100 of the Employment Rights (Northern Ireland) Order 1996(**45**) (guarantee payments, suspension from work on medical or maternity grounds); and"; and

(c) in paragraph 2(1) for "regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e))" substitute "paragraph 1(2)(a) or (b)(ii)".

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

(a) after paragraph 2(**46**) insert—

(**39**) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199
(**40**) S.R. 1989 No. 253
(**41**) Paragraph 15A was inserted by regulation 2(11)(b) of S.R. 2009 No. 92
(**42**) Schedule 3 was substituted by regulation 2 of S.R. 1995 No. 301
(**43**) 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 and modified in relation to certain cases by regulation 9(h)(i) of S.R. 2008 No. 503
(**44**) Paragraphs 1 and 2 were substituted by regulation 4 (11) of S.R. 2007 No. 396
(**45**) S.I. 1996/1919 (N.I. 16)
(**46**) Paragraph 2 was amended by regulation 2(12)(a) of S.R. 1995 No. 86 and regulations 2(1) and (2)(a) of S.R. 2001 No. 258