STATUTORY RULES OF NORTHERN IRELAND

2009 No. 240

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2009

Made - - - -	*19th June 2009*
Coming into operation	*13th July 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(1), 5(1)(a), (b), (h), (j), (k) and (q), 5A(6)(c) and 165(1), (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 10(1)(a), 11(6) and 74(1), (3) and (6) of the Social Security (Northern Ireland) Order 1998(**2**), and now vested in it(**3**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2009 and shall come into operation on 13th July 2009.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**4**) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1) (interpretation) for the definition of "appropriate office"(**5**) substitute—

> ""appropriate office" means an office of the Department and, where any provision in these Regulations relates to a claim, notice or other information, evidence or document being received by or sent, delivered or otherwise furnished in writing to an appropriate office, includes a postal address specified by the Department for that purpose;".

(3) In regulation 3(cb)(**6**) (claims not required for entitlement to benefit in certain cases)—

(**1**) 1992 c. 8; section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), 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))

(**2**) 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 (c. 21)

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

(**4**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1988 No. 67, S.R. 1991 No. 488, S.R. 1997 No. 156, S.R. 2000 No. 365, S.R 2001 Nos. 175 and 176, S.R. 2003 Nos. 191 and 317, S.R 2005 Nos. 14 and 299, S.R. 2006 No. 168, S.R. 2007 Nos. 206, 392 and 467 and S.R. 2008 Nos. 69, 286 and 417

(**5**) The definition of "appropriate office" was amended by paragraph 2(2) of Schedule 2 to S.R. 2001 No. 175

(**6**) Regulation 3(cb) was inserted by regulation 2(2)(a) of S.R. 2007 No. 392 and substituted by regulation 2 of S.R. 2008 No. 69

(a) omit "or" after sub-paragraph (i); and

(b) after sub-paragraph (ii) add—

"or

(iii) the spouse or civil partner of the beneficiary dies having been entitled to a Category A retirement pension at the date of death;".

(4) In regulation 4 (making a claim for benefit)—

(a) in paragraph (6A)(d)(**7**) for "or incapacity benefit" substitute ", incapacity benefit or an employment and support allowance";

(b) for paragraph (7)(**8**) substitute—

"(7) If a claim, other than a claim for income support or jobseeker's allowance, is defective at the date it is received in an appropriate office or office specified in paragraph (6B)(**9**) where that paragraph applies—

(a) the Department shall advise the claimant of the defect; and

(b) if a properly completed claim is received within one month, or such longer period as the Department may consider reasonable, from the date on which the claimant is advised of the defect, the Department shall treat the claim as properly made in the first instance.

(7ZA) If a claim, other than a claim for income support or jobseeker's allowance, has been made in writing but not on the form approved for the time being—

(a) the Department may supply the claimant with the approved form; and

(b) if the form is received properly completed within one month, or such longer period as the Department may consider reasonable, from the date on which the claimant is supplied with the approved form, the Department shall treat the claim as properly made in the first instance.";

(c) in paragraph (10)(**10**) after "state pension credit or" insert ", subject to regulation 6(1D),";

(d) in paragraph (11A)(**11**) for "which the Department accepts for the purposes of making a telephone claim" substitute "for which the Department accepts telephone claims, or in any other case where the Department is willing to do so";

(e) for paragraphs (12) and (13)(**12**) substitute—

"(12) A claim made by telephone in accordance with paragraph (11) or (11A) is properly completed if the Department is provided with all the information required to determine the claim and the claim is defective if not so completed.

(13) Where a claim made by telephone is defective—

(a) in the case of a claim other than a claim for income support or jobseeker's allowance, paragraph (7) applies;

(b) in the case of a claim for income support, paragraph (7A)(**13**) applies; and

(c) in the case of a claim for jobseeker's allowance, paragraph (7B) applies,

(**7**) Paragraph (6A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 317 and amended by regulation 2(4)(a) of S.R. 2005 No. 299, regulation 2(3) of S.R. 2006 No. 168 and regulation 6(2)(a) of S.R. 2007 No. 467

(**8**) Paragraph (7) was amended by regulation 3(3)(d) of S.R. 1997 No. 156 and regulation 2(2)(c) of S.R. 2003 No. 317

(**9**) Paragraph (6B) was inserted by regulation 2(2)(b) of S.R. 2003 No. 317 and amended by regulation 6(2)(b) of S.R. 2007 No. 467

(**10**) Paragraph (10) was added by regulation 4(1) of S.R. 2003 No. 191 and amended by regulation 13(4) of S.R. 2008 No. 286

(**11**) Paragraph (11A) was inserted by regulation 2(3)(c) of S.R. 2008 No. 417

(**12**) Paragraphs (12) to (14) were added by regulation 2(2)(b) of S.R. 2005 No. 14 and paragraph (12) was amended by regulation 2(3)(d) of S.R. 2008 No. 417

(**13**) Paragraphs (7A) and (7B) were inserted by regulation 2(3)(f) of S.R. 2000 No. 365

except that references to a defective claim being received or received in an appropriate office or office specified in paragraph (6B) where that paragraph applies are to be read as references to a defective claim being made by telephone and the reference in paragraph (7)(b) to a properly completed claim being received is to be read as a reference to a claim made by telephone being properly completed."; and

(f) omit paragraph (14).

(5) In regulation 5(1)(**14**) (amendment and withdrawal of claim) for "or 4C(6A)" substitute ", 4C(6A) or 4F(1)(**15**)".

(6) In regulation 6 (date of claim)—

(a) in paragraph (1)(**16**)—

(i) in sub-paragraph (b) for "duly" substitute "properly",

(ii) in sub-paragraph (c) for "of that telephone call" substitute "the claim is properly completed", and

(iii) in sub-paragraph (d) for "regulation 4(14) as having been duly" substitute "regulation 4(13)(a) as having been properly";

(b) in paragraph (1A)(**17**)—

(i) in sub-paragraphs (a) and (b) after "an appropriate office" insert "or a claim made by telephone is properly completed", and

(ii) in sub-paragraph (b) after "the date on which that notification is" insert "made or is";

(c) for paragraph (1D)(**18**) substitute—

"(1D) In the case of a claim for an employment and support allowance, the date on which the claim is made or treated as made shall be the first date on which—

(a) a claim made by telephone is properly completed, or a properly completed claim is received in an appropriate office, or office mentioned in regulation 4G(3);

(b) a defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 4F(5) in the case of a telephone claim, or 4G(7) in the case of a written claim; or

(c) the Department is notified of an intention to claim and within one month or such longer period as the Department considers reasonable of first notification, a claim made by telephone is properly completed, or a properly completed claim is received in an appropriate office, or office mentioned in regulation 4G(3),

or the first day in respect of which the claim is made, if later.

(1E) In paragraph (1D) "properly completed" has the meaning assigned by regulation 4(8)(**19**) in the case of a written claim and 4(12) in the case of a telephone claim.";

(d) in paragraph (4ZC)(**20**) in sub-paragraphs (a) and (b) after "an appropriate office" insert "or a claim made by telephone is properly completed";

(**14**) Regulation 5(1) was amended by regulation 2(3) of S.R. 2005 No. 14 and regulation 2(6) of S.R. 2006 No. 168
(**15**) Regulations 4F and 4G were inserted by regulation 13(5) of S.R. 2008 No. 286
(**16**) Paragraph (1) was amended by regulation 3(4)(a) of S.R. 1997 No. 156, paragraph 3 of Schedule 3 to S.R. 2001 No. 176, regulation 2(4) of S.R. 2005 No. 14 and regulation 2(4)(a) of S.R. 2008 No. 417
(**17**) Paragraph (1A) was inserted by regulation 3(4)(b) of S.R. 1997 No. 156
(**18**) Paragraph (1D) was inserted by regulation 13(6) of S.R. 2008 No. 286
(**19**) Paragraph (8) was substituted by regulation 3(3)(f) of S.R. 1997 No. 156
(**20**) Paragraph (4ZC) was inserted by regulation 2(4)(a) of S.R. 2000 No. 365