STATUTORY RULES OF NORTHERN IRELAND

2009 No. 92

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009

Made - - - - 10th March 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), 129(2), 131, 132(3) and (4)(a) and (b), 132A(3) and (4)(a), 133(2)(e), (f), (i), (j) and (m) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 13A(2)(b) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 6(5), 14(1), (4)(a) and (b) and 36(2) of, and paragraph 1(1) of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**), sections 15(1), (3), (4) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**5**) and sections 17, 25(2) and 28(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**).

In accordance with section 13A(2) of the Social Security Administration (Northern Ireland) Act 1992 the Department has consulted with such organisations representing qualifying lenders likely to be affected by regulation 3 as it considers appropriate.

(**1**) 1992 c. 7; section 123(1)(d) was substituted by paragraph 13(4) and 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)), section 129(2) was amended by Article 8 of the Housing Support Services (Northern Ireland) Order (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 was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21) and paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**2**) 1992 c. 8; 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 amended by paragraph 23 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, paragraph 9 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, Article 18 of S.I. 2002/1555 and paragraph 109 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), and 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

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

(**5**) 2002 c. 14 (N.I.)

(**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**) *See* 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) 2009 and, subject to paragraphs (2) to (4), shall come into operation on 6th April 2009.

(2) This regulation and regulation 3 shall come into operation on 1st April 2009.

(3) Regulations 2(5) and (12), 4(5) and (11)(b), 5(2), (3) and (4), 6(4) and (11), 7(3), (4) and (7) and 8(3)(b) and (8), in so far as they relate to a particular beneficiary, shall come into operation on the first day of the first benefit week to commence for that beneficiary on or after 6th April 2009.

(4) Regulations 6(2)(b) and (9)(a) and (b) and 7(6) in so far as they relate to a particular beneficiary, shall come into operation—

(a) in relation to a case where rent is payable at intervals of a week or any multiple of a week, on 6th April 2009; and

(b) in relation to any other case, on 1st April 2009,

immediately after Article 19(5) of, and Schedule 6 to, and Article 19(7) of, and Schedule 7 to, the Social Security Benefits Up-rating Order (Northern Ireland) 2009(**9**) comes into operation.

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

(a) regulation 2(1)(**10**) of the Income Support (General) Regulations (Northern Ireland) 1987(**11**), in so far as it relates to regulation 2(5) and (12);

(b) regulation 1(2)(**12**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**13**), in so far as it relates to regulation 4(5) and (11)(b);

(c) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(**14**), in so far as it relates to regulation 5(2), (3) and (4);

(d) regulation 2(1) of the Housing Benefit Regulations (Northern Ireland) 2006(**15**), in so far as it relates to regulation 6(4) and (11);

(e) regulation 2(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**16**), in so far as it relates to regulation 7(3), (4) and (7);

(f) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**17**), in so far as it relates to regulation 8(3)(b) and (8).

(6) The Interpretation Act (Northern Ireland) 1954(**18**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**9**) S.R. 2009 No. 89
(**10**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**11**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 No. 318, S.R. 1991 No. 170 , S.R. 1992 No. 403, S.R. 1994 No. 327, S.R. 1996 Nos. 199 and 405, S.R. 1997 No. 412, S.R. 1998 Nos. 81 and 182, S.R. 1999 No. 317, S.R. 2000 No. 241, S.R. 2001 Nos. 151 and 278, S.R. 2004 No. 300, S.R. 2005 No. 536, S.R. 2006 No. 128, S.R. 2007 Nos. 306 and 396, S.R. 2008 Nos.112, 428 and 498
(**12**) 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 and regulation 13(2) of S.R. 2006 No. 359
(**13**) S.R. 1996 No. 198; relevant amending Rules are S.R.1996 Nos. 358 and 503, S.R 1998 Nos. 81 and 182, S.R. 1999 No. 317, S.R. 2001 No. 278, S.R. 2004 No. 300, S.R. 2005 No. 536, S.R. 2006 No. 359, S.R. 2007 Nos. 306 and 396, S.R. 2008 Nos. 112, 286 and 498
(**14**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 Nos. 191 and 421, S.R. 2004 No. 110 and S.R. 2008 No. 498
(**15**) S.R. 2006 No. 405 relevant amending Regulations are S.R. 2007 No. 396, S.R. 2008 Nos. 112, 179, 378 and 428 and S.R. 2009 No. 89
(**16**) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2007 No. 396 and S.R. 2008 No. 498
(**17**) S.R. 2008 No. 280; to which there are amendments not relevant to these Regulations
(**18**) 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 (12).

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

(a) after the definition of "attendance allowance" insert—

""basic rate", where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(**19**) (see section 989 of that Act);"; and

(b) omit the definition of "starting rate"(**20**).

(3) In regulation 4ZA(**21**) (prescribed categories of person) in paragraph (3)(b) after "12" insert ", 15A,".

(4) Omit regulation 21(1A)(**22**) (special cases).

(5) For regulation 30(2A)(**23**) (calculation of earnings of self-employed earners) substitute—

"(2A) This paragraph applies to—

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or

(b) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982(**24**), or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.".

(6) In regulation 39(1)(**25**) (deduction of tax and contributions for self-employed earners) and in regulation 42(8)(a)(**26**) (notional income)—

(a) omit "the starting rate or, as the case may be, the starting rate and"; and

(b) for "starting rate" substitute "basic rate".

(7) In regulation 39D(**27**) deduction in respect of tax for participants in the self-employment route)—

(a) in paragraph (1)(c) omit "the starting rate of tax or, as the case may be, the starting rate and"; and

(b) in paragraph (2) for "starting rate" substitute "basic rate".

(8) In regulation 61(1)(**28**) (interpretation)—

(**19**) 2007 c. 3
(**20**) The definition of "starting rate" was inserted by regulation 4(2)(c) of S.R .2007 No. 396
(**21**) Regulation 4ZA was inserted by regulation 4 of S.R. 1996 No. 199
(**22**) Paragraph (1A) was inserted by regulation 3 of S R. 1991 No. 170
(**23**) Paragraph (2A) was inserted by regulation 2(6)(b) of S.R. 2008 No. 112
(**24**) The Scheme is set out in the appendix to S.I. 1982/719
(**25**) Paragraph (1) was amended by regulation 4(7) of S.R. 1992 No. 403, regulation 2(8) of S.R. 1994 No. 327, regulation 3(4) of S.R 2007 No. 306 and regulation 4(7) of S.R. 2007 No. 396
(**26**) Paragraph (8)(a) was amended by regulation 4(8)(a) of S.R. 1992 No. 403, regulation 2(8) of S.R. 1994 No. 327, regulation 3(6)(f) of S.R. 2007 No. 306 and regulation 4(9)(c) of S.R. 2007 No. 396
(**27**) Regulation 39D was inserted by regulation 3(3) of S.R. 1998 No. 182 and amended by regulation 14(3)(c) of S.R. 2001 No. 151; paragraph 1(c) was amended by regulation 4(8) of S.R. 2007 No. 396 and paragraph (2) was amended by regulation 3(5)(b) of S.R. 2007 No. 306 and regulation 4(8) of S.R. 2007 No. 396
(**28**) Regulation 61 was renumbered as regulation 61(1) by regulation 3(3) of S.R. 2000 No. 241

(a) for the definition of "contribution"(**29**) substitute—

""contribution" means—

(a) any contribution in respect of the income of a student or any person which the Department, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or

(b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980(**30**), the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder's expenses—

(i) the holder of the allowance or bursary;

(ii) the holder's parents;

(iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he were the spouse or civil partner of that parent, or

(iv) the holder's spouse or civil partner;";

(b) in the definition of "grant income"(**31**) in paragraph (c) for "or 12 of Schedule 1B (lone parent or disabled student) applies" substitute ", 12 or 15A of Schedule 1B applies (lone parent, disabled student or persons in education)".

(9) In regulation 62(2) (calculation of grant income), after sub-paragraph (j)(**32**) add—

"(k) of higher education bursary for care leavers made under Part III of the Children Act 1989(**33**).".

(10) In regulation 66A(4)(a)(ii) (treatment of student loans) for "or 12 of Schedule 1B applies (lone parent or disabled student)" substitute ", 12 or 15A of Schedule 1B applies (lone parent, disabled student or persons in education)".

(11) In Schedule 1B(**34**) (prescribed categories of person)—

(a) in paragraph 3(a) before "ill" insert "temporarily"; and

(b) after paragraph 15(**35**) (persons in education) insert—

"**Circumstances in which a person in education will be treated as not being a member of a household**

15A.—(1) A person is subject to this regulation if they fulfil the conditions in sub-paragraphs (2) to (5).

(2) The first condition is that he is under the age of 21.

(3) The second condition is that he is undertaking a course of full-time, non-advanced education.

(**29**) The definition of "contribution" was substituted by regulation 5(8)(a) of S.R. 1996 No. 405 and amended by regulation 3(1) and (2)(d) of S.R. 1998 No. 81, regulation 3(2)(a) of S.R. 1999 No. 317, regulation 2(1)(c) of S.R. 2001 No. 278, paragraph 12(5) of Schedule 3 to S.R. 2005 No. 536 and regulation 2(6)(a) of S.R. 2008 No. 428

(**30**) 1980 c. 44

(**31**) The definition of "grant income" was amended by regulation 5(5) of S.R. 1997 No. 412

(**32**) Sub-paragraph (j) was added by regulation 3(2)(b) of S.R. 2004 No. 300

(**33**) 1989 c.41; Provision relating to higher education bursaries for care leavers was inserted into the Children Act 1989 by the Children and Young Persons Act 2008 (c. 23)

(**34**) Schedule 1B was inserted by regulation 22 of and Schedule 1 to S.R. 1996 No. 199

(**35**) Paragraph 15 was amended by regulation 2(7)(a) of S.R. 2006 No. 128

(4) The third condition is that he was accepted to attend, enrolled on, or began the course before attaining the age of 19.

(5) The fourth condition is that—

(a) he has no parent;

(b) of necessity he has to live away from his parents because—

(i) he is estranged from them;

(ii) he is in physical or moral danger, or

(iii) there is a serious risk to his physical or mental health; or

(c) he is living away from his parents where they are unable financially to support him and are—

(i) chronically sick or mentally or physically disabled;

(ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or

(iii) prohibited from entering or re-entering Northern Ireland.

(6) In this paragraph—

"chronically sick or mentally or physically disabled" has the meaning given in regulation 13(3)(b);

"course of full-time, non-advanced education" means education of a kind referred to in regulation 3(2)(a) or (b) of the Child Benefit (General) Regulations 2006(**36**);

"parent" includes a person acting in place of a parent which—

(a) for the purposes of sub-paragraph (5)(a) and (b) has the meaning given in regulation 13(3)(a)(i), and

(b) for the purposes of sub-paragraph (5)(c), has the meaning given in regulation 13(3)(a)(ii).".

(12) In Schedule 10 (capital to be disregarded) after paragraph 39(**37**) insert—

"**39A.** Any payment made under Part 8A of the Contributions and Benefits Act(**38**) (entitlement to health in pregnancy grant).".

Amendment of the Social Security (Claims and Payments) Regulations

3. In paragraph 6 of Schedule 8B to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**39**) (deductions of mortgage interest from benefit and payment to qualifying lenders) for "£0·47" substitute "£0·55".

Amendment of the Jobseeker's Allowance Regulations

4.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996 are amended in accordance with paragraphs (2) to (11).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(**36**) S.I. 2006/223, as amended by regulations 2 and (4)(a) of S.I. 2007/2150.
(**37**) Paragraph 39 was substituted by regulation 2(7)(d) of S.R. 2008 No. 498
(**38**) *See* section 136A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by section 134 of the Health and Social Care Act 2008 (c. 14)
(**39**) S.R. 1987 No. 465; relevant amending regulations are S.R 1992 No. 271, S.R. 2003 No. 191 and S.R. 2007 No. 128