STATUTORY RULES OF NORTHERN IRELAND

2008 No. 498

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 7) Regulations (Northern Ireland) 2008

Made - - - -	*11th December 2008*
Coming into operation	*5th January 2009*

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), 132(1), (3) and (4), 132A(3) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 14(4) and 36(2) of, and paragraph 8(a) of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), sections 15(1)(e) and (j), (2) and (6) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**4**) and sections 17, 25 and 28(2) of the Welfare Reform Act (Northern Ireland) 2007(**5**).

Regulations 5, 6 and 7 are made with the consent of the Department of Finance and Personnel(**6**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(**7**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 7) Regulations (Northern Ireland) 2008 and, subject to paragraph (2), shall come into operation on 5th January 2009.

(2) Regulations 2(6)(c) and (d)(ii), 3(6)(b), (c) and (j) and (7)(a), 4(3)(a), (4)(a)(iii) and (iv) and (e) and (5)(b) and (d) and 8(3)(a) in so far as they relate to a particular beneficiary, shall come into

(**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 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 171 was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21) and paragraph (2) was amended by paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**2**) 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

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

(**4**) 2002 c. 14 (N.I.)

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

(**6**) *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

(**7**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

operation on the first day of the first benefit week to commence for that beneficiary on or after 5th January 2009.

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

(a) regulation 2(1)(**8**) of the Income Support (General) Regulations (Northern Ireland) 1987(**9**), so far as it relates to regulation 2(6)(c) and (d)(ii);

(b) regulation 1(2)(**10**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**11**), so far as it relates to regulation 3(6)(b), (c) and (j) and (7)(a);

(c) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(**12**), so far as it relates to regulation 4(3)(a), (4)(a)(iii) and (iv) and (e) and (5)(b) and (d);

(d) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**13**), so far as it relates to regulation 8(3)(a).

(4) The Interpretation Act (Northern Ireland) 1954(**14**) 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 are amended in accordance with paragraphs (2) to (7).

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

(a) in the definition of "concessionary payment" for "the Order, the principal Act or the Child Benefit (Northern Ireland) Order 1975" substitute "the benefit Acts";

(b) omit the definition of "mobility allowance";

(c) in the definition of "mobility supplement" for "Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983" substitute "Article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(**15**)";

(d) after the definition of "voluntary organisation"(**16**) insert—

> ""war disablement pension" means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(**17**);
>
> "war pension" means a war disablement pension, a war widow's pension or a war widower's pension;
>
> "war widow's pension" means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax

(**8**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**9**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1989 No. 366, S.R. 1990 Nos. 131 and 346, S.R. 1992 Nos. 6 and 147, S.R. 1993 No. 120, S.R. 1994 Nos. 77 and 327, S.R. 1995 Nos. 86, 367, 410 and 481, S.R.1996 No. 449, S.R.1997 Nos. 22 and 331, S.R. 1998 Nos. 2 and 326, S.R. 2000 Nos. 222 and 242, S.R. 2001 No. 392, S.R. 2002 No. 128, S.R. 2003 No. 195, S.R. 2005 Nos. 98, 424, 536 and 539, S.R. 2006 No. 407 and S.R. 2008 No. 286
(**10**) 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
(**11**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 1997 Nos. 331 and 541, S.R. 1998 Nos. 2, 198 and 326, S.R. 2000 Nos. 242, 260 and 350, S.R. 2001 No. 392, S.R. 2002 Nos. 128 and 222, S.R. 2003 Nos. 195 and 338, S.R. 2005 Nos. 98, 424 and 536, S.R. 2006 Nos. 359 and S.R. 2008 No. 112 and 286
(**12**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 421 and S.R. 2005 Nos. 98 and 536
(**13**) S.R. 2008 No. 280
(**14**) 1954 c. 33 (N.I.)
(**15**) S.I. 2006/606
(**16**) The definition of "voluntary organisation" was inserted by regulation 2(2) of S.R. 1995 No. 86
(**17**) 2003 c. 1; Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7)

(Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;"; and

(e) for the definition of "war widower's pension"(**18**) substitute—

""war widower's pension" means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;".

(3) In regulation 13(3)(b)(ii) (circumstances in which persons in relevant education are to be entitled to income support) for "Article 26 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (medical expenses)" substitute "Article 21 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (medical expenses)".

(4) In regulations 42(4)(a)(i)(**19**) (notional income) and 51(3)(a)(i)(**20**) (notional capital) omit "the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and".

(5) In regulation 61(1) (interpretation) in sub-paragraph (e) of the definition of "access funds" (**21**) for "National Assembly for Wales" substitute "Welsh Ministers".

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

(a) in paragraph 5(**22**) omit "including any amount" to the end;

(b) in paragraph 6(**23**) for "Any mobility allowance or the" substitute "The";

(c) for paragraph 7(b)(**24**) substitute—

"(b) income support;

(c) an income-based jobseeker's allowance; or

(d) an income-based employment and support allowance.";

(d) in paragraph 16—

(i) in sub-paragraph (c)(**25**) omit "the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and", and

(**18**) The definition of "war widower's pension" was inserted by regulation 2(2) of S.R. 2002 No. 128 and amended by paragraph 12(2)(c) of S.R. 2005 No. 536 and regulation 3(2)(d) of S.R. 2007 No. 306

(**19**) Paragraph (4) was substituted by regulation 9(a) of S.R. 1988 No. 318 and amended by regulation 2(2)(a) of S.R. 1998 No. 326; sub-paragraph (a)(i) was amended by regulation 5(2) of S.R. 1995 No. 410, regulation 2(2) of S.R. 1995 No. 481, regulation 2(3) of S.R. 2002 No. 128, paragraph 10(e)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195, regulation 2(6) of S.R. 2005 No. 98 and regulation 4(2) of S.R. 2005 No. 539

(**20**) Paragraph (3) was substituted by regulation 11(a) of S.R. 1988 No. 318 and amended by regulation 3(2)(a) of S.R. 1998 No. 326; sub-paragraph (a)(i) was amended by regulation 9 of S.R. 1997 No. 22, regulation 2(4) of S.R. 2002 No. 128, paragraph 13(a)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195, regulation 2(6) of S.R. 2005 No. 98 and regulation 4(3) of S.R. 2005 No. 539

(**21**) The definition of "access funds" was inserted by regulation 2(2)(a) of S.R. 2000 No. 242 and sub-paragraph (e) was added by regulation 2(1)(a) of S.R. 2002 No. 222

(**22**) Paragraph 5 was amended by regulation 2(5)(a) of S.R. 1996 No. 449, regulation 3(2) of S.R. 2005 No. 98 and paragraph 1(5) of Schedule 2 to S.R. 2006 No. 407

(**23**) Paragraph 6 was amended by regulation 10(6)(a) of S.R. 1992 No. 6

(**24**) Sub-paragraph (b) was amended by regulation 12(14)(a) of S.R. 2008 No. 286

(**25**) Sub-paragraph (c) was amended by regulation 2(2) of S.R. 1995 No. 481 and Article 2(3) and paragraph 12(8)(a) of Schedule 3 to S.R. 2005 No.536

(ii) in sub-paragraph (cc)(**26**) at the end add "and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10";

(e) in paragraph 25(1)(**27**)—

(i) in head (b)(**28**) for "Secretary of State under section 51" substitute "Scottish Ministers under section 51A", and

(ii) omit head (d)(**29**);

(f) in paragraph 31(**30**) for "Part IV of the Order" substitute "Part 8 of the Contributions and Benefits Act";

(g) in paragraph 33 for "paragraph 2 of Schedule 6 to the Order" substitute "Part 10 of the Contributions and Benefits Act";

(h) omit paragraph 47(**31**);

(i) for paragraphs 48(**32**) and 49 substitute—

"**48.**—(1) Any payment or repayment made under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(**33**) (entitlement to full remission and payment, entitlement to partial remission and payment, or repayment);

(2) Any payment or repayment made by the Department of Health, Social Services and Public Safety which is analogous to a payment or repayment mentioned in sub-paragraph (1).

49. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988(**34**) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).";

(j) for paragraphs 52(**35**), 53(**36**) and 54(**37**) substitute—

"**52.** Any council tax benefit.

53.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(**26**) Sub-paragraph (cc) was inserted by regulation 2(8)(a) of S.R. 2005 No. 98
(**27**) Sub-paragraph (1) was substituted by regulation 4 of S.R. 1989 No. 366
(**28**) Head (b) was amended by regulation 2(8)(a) of S.R.1998 No. 2 and 2(8)(b)(i) of S.R. 2005 No. 424
(**29**) Head (d) was substituted by regulation 3(2) of S.R. 1997 No. 331
(**30**) Paragraph 31 was substituted by regulation 5(9)(f) of S.R. 1992 No. 147
(**31**) Paragraph 47 was added by regulation 20(e) of S.R. 1990 No. 131
(**32**) Paragraphs 48 and 49 were added by regulation 8 of S.R. 1990 No. 346
(**33**) S.R. 2004 No. 91
(**34**) S.I. 1988/594 (N.I. 2); Article 13 was substituted by Article 3 of the Food Benefit Schemes (Northern Ireland) Order 2003 (S.I. 2003/3202 (N.I. 19))
(**35**) Paragraph 52 was added by regulation 4(7)(d) of S.R. 1993 No. 120 and amended by regulation 2(5)(b) of S.R. 1996 No. 449
(**36**) Paragraph 53 was added by regulation 4(9)(d) of S.R. 1994 No. 77 and amended by regulation 2(9)(b) of S.R. 1995 No. 367
(**37**) Paragraph 54 was added by regulation 2(10)(b) of S.R. 1994 No. 327 and amended by Article 2(3) and paragraph 12(8)(c) of Schedule 3 to S.R. 2005 No. 536

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

54. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.";

(k) for paragraph 56(1)(b)(**38**) substitute—

"(b) equal to the amount specified in Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006."; and

(l) omit paragraph 57(**39**).

(7) In Schedule 10 (capital to be disregarded)—

(a) in paragraph 18(**40**) for "Part IV of the Order" substitute "Part 8 of the Contributions and Benefits Act";

(b) in paragraph 19 for "section 26 of the Finance Act 1982 (deductions of tax from certain loan interest)" substitute "section 369 of the Income and Corporation Taxes Act 1988(**41**) (mortgage interest payable under deduction of tax)";

(c) in paragraph 38(1)(**42**) for "3, 5, or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989" substitute "5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004";

(d) for paragraph 39 substitute—

"**39.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.";

(e) for paragraph 41 substitute—

"**41.** Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.";

(f) omit paragraphs 45, 46 and 47(**43**); and

(g) in paragraph 61(**44**) omit "within the meaning in section 25 of the Social Security Act 1989".

(**38**) Head (b) was amended by Article 2(3) and paragraph 12(8)(e)(ii) of Schedule 3 to S.R. 2005 No. 536
(**39**) Paragraph 57 was added by regulation 2(5)(c) of S.R. 1996 No. 449
(**40**) Paragraph 18 was substituted by regulation 14(a) of S.R. 1992 No. 147
(**41**) 1988 c. 1
(**42**) Paragraphs 38, 39 and 41 were added by regulation 9(d) of S.R. 1990 No. 346; paragraph 41 was amended by regulation 2(11)(a) of S.R. 1994 No. 327
(**43**) Paragraphs 45, 46 and 47 were added by regulation 2(6) of S.R. 1996 No. 449; paragraph 46 was amended by paragraph 1(6) of Schedule 2 to S.R. 2006 No. 407
(**44**) Paragraph 61 was added by regulation 2(a) of S.R. 2001 No. 392 and amended by Article 2(3) and paragraph 12(9)(e) of Schedule 3 to S.R. 2005 No. 536