STATUTORY RULES OF NORTHERN IRELAND

2008 No. 428

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2008

Made - - - - 23rd October 2008

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)(e), 129A(2), 131(1), 132(3) and (4)(a) to (c), 132A(3), 133(2)(h) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(h) and (q) and 165(1) and (3) to (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 6(5), 14(1) to (3) and (4)(a) to (c) and 36(2) of, and paragraph 3(b) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**), and sections 2(3)(b) and (6), 15(3) and (6)(b) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002(**5**).

Regulations 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 regulations 6 and 7 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. 5) Regulations (Northern Ireland) 2008 and shall, subject to paragraph (2) come into operation on 17th November 2008.

(**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 amended by Schedule 3 to the State Pension Credit Act (Northern Ireland) 2002 (c.14 (N.I.)), section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 and 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)

(**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**) *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

(2) Regulation 7(5) shall come into operation on 6th April 2009.

(3) The Interpretation Act (Northern Ireland) 1954(**8**) 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(**9**) are amended in accordance with paragraphs (2) to (10).

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

(a) omit the definitions of—

(i) "community charge benefit"(**10**);

(ii) "the Independent Living Fund"(**11**);

(iii) "the Independent Living Funds"(**12**);

(iv) "the Independent Living (Extension) Fund", and

(v) "the Independent Living (1993) Fund";

(b) in the definition of "non-dependant deduction" for "paragraph 11" substitute "paragraph 18";

(c) in the definition of "training allowance"(**13**)—

(i) for "Department of Economic Development" in each place where it occurs, substitute "Department for Employment and Learning", and

(ii) omit "sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(**14**) or"; and

(d) in the definition of "youth training programme"(**15**) omit "sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or".

(3) In regulation 31 (date on which income is treated as paid)—

(a) in paragraph (1)(**16**) for "paragraph (2) or (3) applies" substitute "paragraphs (2) to (4) apply";

(b) in paragraph (3)(**17**)—

(i) for "Working tax credit or child tax credit" substitute "Subject to paragraph (4), working tax credit", and

(ii) omit sub-paragraph (c) and the preceding "or"; and

(c) after paragraph (3) add—

(**8**) 1954 c. 33 (N.I.)
(**9**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146, 205, 274, 318 and 431, S.R. 1989 Nos. 326 and 365, S.R. 1990 Nos. 33, 131, 297 and 387, S.R. 1991 No. 204, S.R. 1992 No. 201, S.R. 1993 Nos. 120, 195 and 233, S.R. 1995 Nos. 301 and 434, S.R. 1996 No. 405, S.R. 1998 Nos. 81 and 326, S.R. 1999 No. 317, S.R. 2000 Nos. 74, 241 and 242, S.R. 2001 No. 278, S.R. 2002 No. 222, S.R. 2003 No. 338, S.R. 2004 Nos. 213 and 389, S.R. 2005 Nos. 536 and 550, S.R. 2007 No. 382 and S.R. 2008 No. 286
(**10**) The definition of "community charge benefit" was substituted by regulation 4(2)(a) of S.R. 1993 No. 120
(**11**) The definition of "the Independent Living Fund" was inserted by regulation 4 of 1988 No. 205
(**12**) The definitions of "the Independent Living Funds", "the Independent Living (Extension) Fund" and "the Independent Living (1993) Fund" were inserted by regulation 5(2) of S.R. 1993 No. 195 and the definition of "the Independent Living Funds" was amended by Article 2(2)(a) of S.R. 2007 No. 382
(**13**) The definition of "training allowance" was amended by regulation 2 of S.R. 1989 No. 326 and regulation 3(2)(a) of S.R. 1990 No. 387
(**14**) 1945 c. 6 (N.I.)
(**15**) The definition of "youth training programme" was inserted by regulation 2(b) of S.R. 1988 No. 274 and amended by regulation 3(2)(b) of S.R. 1990 No. 387
(**16**) Paragraph (1) was amended by regulation 3(1)(a) of S.R. 2000 No. 74
(**17**) Paragraph (3) was substituted by regulation 2(2) of S.R. 2003 No. 338

"(4) Where working tax credit is paid by virtue of regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**18**), it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.".

(4) In regulation 32(1)(**19**) (calculation of weekly amount of income)—

(a) after "other than earnings)" insert "and regulations 31(3) (date on which income is treated as paid)" and after "a payment" insert "of income or tax credit"; and

(b) for sub-paragraph (b)(iii) substitute—

"(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7; and

(iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;".

(5) In—

(a) regulation 42(4ZA)(a)(**20**) (notional income);

(b) regulation 48(10)(c) (**21**) (income treated as capital);

(c) regulation 51(3A)(a)(**22**) (notional capital);

(d) regulation 72(1)(a)(i)(**23**) (assessment of income and capital in urgent cases);

(e) paragraph 18(8)(b)(**24**) of Schedule 3 (housing costs);

(f) paragraphs 21(2)(**25**) and 39(1)(**26**) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings); and

(g) paragraph 22(1)(**27**)of Schedule 10 (capital to be disregarded),

for "Funds" substitute "Fund (2006)".

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

(a) in the definition of "contribution"(**29**) for "Further and Higher Education (Scotland) Act 1992" substitute "Education (Scotland) Act 1980(**30**)";

(**18**) S.I. 2002/2005; regulation 7D was inserted by S.I. 2007/968

(**19**) Paragraph (1) was amended by regulation 15(a) of S.R. 1988 No. 146 and regulation 10(a) of S.R. 1989 No. 365

(**20**) Paragraph (4ZA) was inserted by regulation 2(2)(b) of S.R. 1998 No. 326

(**21**) Paragraph (10) was added by regulation 10(b) of S.R. 1988 No. 431; sub-paragraph (c) was amended by regulation 4(3)(b) of S.R. 1990 No. 33, regulation 4(4) of S.R. 1991 No. 204, regulation 5(4) of S.R. 1992 No. 201 and regulation 5(3)(b) of S.R. 1993 Nos. 195 and 233

(**22**) Paragraph (3A) was inserted by regulation 3(2)(b) and (3)(c) of S.R. 1998 No. 326; sub-paragraph (a) was amended by regulation 2(1) and (2)(b) of S.R. 2004 No. 389 and regulation 2(3) of S.R. 2005 No. 550

(**23**) Paragraph (1)(a) was substituted by regulation 12(1)(a) of S.R. 1998 No. 81 and amended by regulation 12(8)(a) of S.R. 2008 No. 286

(**24**) Sub-paragraph (8) was amended by regulation 2(3)(j)(iii) of S.R. 1995 No. 434

(**25**) Paragraph 21 was substituted by regulation 36(d) of S.R. 1988 No. 146 and sub-paragraph (2) was amended by regulation 5(d) of S.R. 1988 No. 205, regulation 4(3)(e) of S.R. 1990 No. 33, regulation 4(7)(a) of S.R. 1991 No. 204, regulation 5(7)(a) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195 and regulation 5(4)(a) of S.R. 1993 No. 233

(**26**) Paragraph 39 was substituted by regulation 4(7)(b) of S.R. 1991 No. 204 and amended by regulation 5(7)(b)(i) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195 and regulation 5(4)(b)(i) of S.R. 1993 No. 233

(**27**) Paragraph 22 was substituted by regulation 4(8)(a) of S.R. 1991 No. 204; sub-paragraph (1) was amended by regulation 5(8)(a)(i) of S.R. 1992 No. 201, regulation 5(5)(a) of S.R. 1993 No. 233, regulation 3(1) and (2)(b) of S.R. 2004 No. 213 and regulation 2(5)(a)(i) of S.R. 2005 No. 550

(**28**) Regulation 61 was renumbered as regulation 61(1) by regulation 3(3) of S.R. 2000 No. 241

(**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 and paragraph 12(5) of Schedule 3 to S.R. 2005 No. 536

(**30**) 1980 c. 44

(b) for the definition of "sandwich course"(**31**) substitute—

> ""sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations (Northern Ireland) 2008(**32**), regulation 2(10) of the Education (Student Support) Regulations (No. 2) 2008(**33**) or regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(**34**), as the case may be;";

(c) in paragraph (c) of the definition of "standard maintenance grant"(**35**) omit "and paid under the Further and Higher Education (Scotland) Act 1992"; and

(d) in the definition of "student loan"(**36**) for "the Students' Allowances (Scotland) Regulations 1999" substitute "the Students' Allowances (Scotland) Regulations 2007(**37**)".

(7) In regulation 66A(**38**) (treatment of student loans)—

(a) in paragraph (1) omit "unless it is a hardship loan in which case it shall be disregarded"; and

(b) omit paragraph (1A).

(8) In Schedule 3(**39**) (housing costs)—

(a) in paragraph 4(10)(b) (housing costs not met) for "children" substitute "persons" and for "who belong to the same family as the claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible";

(b) in paragraph 14(3) (linking rule) omit "under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945";

(c) in paragraph 16(2)(l) (loans for repairs and improvements to the dwelling occupied as the home) for "children" substitute "persons" and for "who are part of the same family as the claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible"; and

(d) for paragraph 18(7)(b) (non-dependant deductions) substitute—

> "(b) if he is in receipt of an allowance paid in connection with a youth training programme provided or arranged by the Department for Employment and Learning under section 1(1) or 3 of the Employment and Training Act (Northern Ireland) 1950(**40**).".

(9) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) omit paragraph 45(**41**).

(**31**) The definition of "sandwich course" was substituted by regulation 2(2)(b) of SR 2000 No. 242 and amended by regulation 2(1)(c) and (2)(b) of S.R. 2002 No. 222
(**32**) S.R. 2008 No. 250
(**33**) S.I. 2008/1582
(**34**) S.S.I. 2007/154
(**35**) The definition of "standard maintenance grant" was substituted by regulation 5(8)(a) of S.R. 1996 No. 405, paragraph (c) was substituted by regulation 2(1)(d) of S.R. 2001 No. 278
(**36**) The definition of "student loan" was substituted by regulation 3(2)(b) of S.R. 1999 No. 317 and amended by regulation 2(1)(e) of S.R. 2001 No. 278
(**37**) S.S.I. 2007/153
(**38**) Regulation 66A was inserted by regulation 4(7) of S.R. 1990 No. 297 and paragraph (1) was substituted and (1A) inserted by regulation 2(4)(a) of S.R. 2000 No. 242
(**39**) Schedule 3 was substituted by regulation 2 of S.R. 1995 No. 301
(**40**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8)), section 3 was amended by Article 16 of, and Part I of Schedule 4 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and Article 35 of, and paragraph 1 of Schedule 3 to, the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159 (N.I. 9))
(**41**) Paragraph 45 was added by regulation 20(e) of S.R. 1990 No. 131

(10) In Schedule 10 (capital to be disregarded) in paragraph 29(**42**) omit ", the Independent Living (1993) Fund".

Amendment of the Social Security (Claims and Payments) Regulations

3. In Schedule 8A of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**43**) (deductions from benefit and direct payment to third parties) at the end of paragraph 9(1)(a) add ", paragraph 4 (miscellaneous accommodation costs) or paragraph 4A (hostel payments)."

Amendment of the Jobseeker's Allowance Regulations

4.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**44**) are amended in accordance with paragraphs (2) to (9).

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

(a) omit the definitions of—

(i) "the Independent Living Fund";

(ii) "the Independent Living Funds"(**45**);

(iii) "the Independent Living (Extension) Fund", and

(iv) "the Independent Living (1993) Fund";

(b) for the definition of "sandwich course"(**46**) substitute—

> ""sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations (Northern Ireland) 2008, regulation 2(10) of the Education (Student Support) (No. 2) Regulations 2008 or regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 as the case may be;"; and

(c) in the definition of "training allowance"(**47**) omit "sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or".

(3) In regulation 96 (date on which income is treated as paid)—

(a) in paragraph (1)(**48**) for "paragraph (2) or (3) applies" substitute "paragraphs (2) to (4) apply";

(b) in paragraph (3)(**49**)—

(i) for "Working tax credit or child tax credit" substitute "Subject to paragraph (4) working tax credit", and

(ii) omit paragraph (c) and the preceding "or"; and

(c) after paragraph (3) insert—

(**42**) Paragraph 29 was added by regulation 25 of S.R. 1988 No. 318 and amended by regulation 4(4) of S.R. 1990 No. 33, regulation 5(8)(b) of S.R. 1992 No. 201, regulation 5(4) of S.R. 1993 No. 195 and Article 2(3) of S.R. 2007 No. 382

(**43**) S.R. 1987 No. 465; Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67, paragraph 9(1) was amended by regulation 6(5) of S.R. 1989 No. 40, regulation 2(5) of S.R. 1993 No. 146, regulation 2(8)(d)(i) of S.R. 1996 No. 432, regulation 4(2)(c) of S.R. 1997 No. 165, regulation 2(g) of S.R. 2007 No. 206 and regulation 2(d) of S.R. 2007 No. 330

(**44**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1996 No. 503, S.R. 1997 Nos. 130 and 165, S.R. 1998 Nos. 81 and 326, S.R. 1999 No. 317, S.R. 2000 Nos. 74, 242 and 350, S.R. 2001 No. 278, S.R. 2002 No. 222, S.R. 2003 No. 338, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2007 No. 382 and S.R. 2008 No. 112

(**45**) The definition of "the Independent Living Funds" was amended by Article 4(a) of S.R. 2007 No. 382

(**46**) The definition of "sandwich course" was substituted by regulation 3(2)(b) of S.R. 2000 No. 242 and amended by regulation 2(3)(a) of S.R. 2002 No. 222

(**47**) The definition of "training allowance" was amended by regulation 4(2)(b) of S.R. 2008 No. 112

(**48**) Paragraph (1) was amended by regulation 3(2)(a) of S.R. 2000 No. 74

(**49**) Paragraph (3) was substituted by regulation 4(2) of S.R. 2003 No. 338