STATUTORY RULES OF NORTHERN IRELAND

2008 No. 417

SOCIAL SECURITY; HOUSING; RATES

The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2008

Made - - - -	*9th October 2008*
Coming into operation	*30th October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(1), 5(1)(a), (b) and (j) and 165(1), (3), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 10(1), 11(3) and (6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**2**), and now vested in it(**3**) and paragraphs 4(5), 12, 13(1), (2)(c) and (3)(c) and 20(1)(b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**4**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2008 and shall come into operation on 30th October 2008.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**5**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) for paragraph (da)(**6**) substitute—

"(da) in the case of a bereavement payment where the beneficiary is in receipt of a retirement pension at the date of death of the beneficiary's spouse or civil partner and

(**1**) 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(3) was amended by paragraph 10 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**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
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**4**) 2000 c. 4 (N.I.)
(**5**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1992 No. 83, S.R. 1997 No. 156, S.R. 2000 No. 215, S.R. 2001 No. 176, S.R. 2002 Nos. 67 and 297, S.R. 2005 Nos. 14 and 299, S.R. 2006 No. 168 and S.R. 2007 No. 392
(**6**) Paragraph (da) was inserted by regulation 2(2)(b) of S.R. 2007 No. 392

satisfies the conditions of entitlement under section 36(1) of the Contributions and Benefits Act(**7**);".

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

(a) in paragraph (1)(**8**) for "paragraphs (10) and (11)" substitute "paragraphs (10) to (11B)";

(b) in paragraph (1A)(**9**) at the beginning insert "Subject to paragraph (11A),";

(c) after paragraph (11)(**10**) insert—

"(11A) A claim for income support or jobseeker's allowance may be made by telephone call to the telephone number specified by the Department where such a claim falls within a category of case which the Department accepts for the purposes of making a telephone claim.

(11B) Paragraph (11A) shall apply unless in any particular case the Department directs that the claim must be made in writing."; and

(d) in paragraph (12) for "paragraph (11)" substitute "paragraph (11) or (11A)".

(4) In regulation 6 (date of claim)—

(a) in paragraph (1)(c)(**11**) for "regulation 4(11)" substitute "regulation 4(11) or (11A)";

(b) in paragraph (21)(**12**)—

(i) after "the further claim" insert "for a relevant benefit", and

(ii) for "on which the additional circumstances apply" substitute "of the decision to award, re-award, or recommence payment of the qualifying benefit on the grounds that sub-paragraph (a), (b), (c) or (d) was satisfied";

(c) in paragraph (33)(**13**)—

(i) after "carer's allowance" insert "or for an increase in carer's allowance in respect of an adult or child dependant", and

(ii) for "is the first day in respect of which that qualifying benefit is payable" substitute "shall be treated as the first day of the benefit week in which the award of the qualifying benefit became payable"; and

(d) for paragraph (34)(**14**) substitute—

"(34) Where the decision awarding a qualifying benefit is made in respect of a renewal claim where a fixed period award of that benefit has expired, or is due to expire, the date of claim for carer's allowance shall be treated as the first day of the benefit week in which the renewal award of the qualifying benefit became payable.".

(5) In regulation 22(1)(**15**) (long term benefits) for "four weeks, or weekly in advance" substitute "four weeks in arrears, weekly in advance or, where the beneficiary agrees, at intervals not exceeding 13 weeks in arrears".

(**7**) Section 36(1) was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 70(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**8**) Paragraph (1) was amended by regulation 7(3) of S.R. 1992 No. 83, regulation 3(3)(a) of S.R. 1997 No. 156 and regulation 2(2)(a) of S.R. 2005 No. 14

(**9**) Paragraph (1A) was inserted by regulation 3(3)(b) of S.R. 1997 No. 156

(**10**) Paragraphs (11) and (12) were added by regulation 2(2)(b) of S.R. 2005 No. 14 and paragraph (11) was amended by regulation 2(4)(b) of S.R. 2005 No. 299

(**11**) 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 and regulation 2(4) of S.R. 2005 No. 14

(**12**) Paragraph (21) was substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and amended by regulation 2(2)(e) of S.R. 2002 No. 67 and regulation 2(3)(d) of S.R. 2007 No. 392

(**13**) Paragraph (33) was added by regulation 2(7)(f) of S.R. 2006 No. 168 and amended by regulation 2(3)(g) of S.R. 2007 No. 392

(**14**) Paragraph (34) was added by regulation 2(3)(h) of S.R. 2007 No. 392

(**15**) Regulation 22(1) was substituted by regulation 2(3) of S.R. 2002 No. 297

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**16**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (revision of decisions) after paragraph (8A)(**17**) insert—

"(8B) A decision made under Article 9 or 11 ("the original decision") may be revised at any time—

(a) where on or after the date of the original decision—

(i) a late paid contribution is treated as paid under regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations (Northern Ireland) 2001(**18**) on a date which falls on or before the date on which the original decision was made,

(ii) a direction is given under regulation 6 of those Regulations(**19**) that a late contribution shall be treated as paid on a date which falls on or before the date on which the original decision was made, or

(iii) an unpaid contribution is treated as paid under regulation 60 of the Social Security (Contributions) Regulations 2001(**20**) on a date which falls on or before the date on which the original decision was made; and

(b) where any of heads (i), (ii) or (iii) of sub-paragraph (a) apply, either an award of benefit would have been made or the amount of benefit awarded would have been different.".

(3) In regulation 6(2) (supersession of decisions)—

(a) in sub-paragraph (g)(**21**) for "doctor" substitute "health care professional"; and

(b) after sub-paragraph (q)(**22**) add—

"(r) is a decision where on or after the date on which the decision was made, a late or unpaid contribution is treated as paid under—

(i) regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations (Northern Ireland) 2001 on a date which falls on or before the date on which the original decision was made,

(ii) regulation 6 of those Regulations on a date which falls on or before the date on which the original decision was made, or

(iii) regulation 60 of the Social Security (Contributions) Regulations 2001 on a date which falls on or before the date on which the original decision was made.".

(4) In regulation 7 (date from which a decision superseded under Article 11 takes effect)—

(a) in paragraph (1)(a)(**23**) after "(2)(b)" insert ", (bb)";

(**16**) S.R. 1999 No. 162; relevant amending Rules are S.R. 1999 Nos. 267, 408 and 472 (C. 36), S.R. 2000 Nos. 3, 215 and 365, S.R. 2002 No. 80, S.R. 2003 Nos. 191 and 224, S.R. 2005 No. 46, S.R. 2006 Nos. 168 and 365 and S.R. 2008 Nos. 179 and 286
(**17**) Paragraph (8A) was inserted by regulation 7(3) of S.R. 2002 No. 80
(**18**) S.R. 2001 No. 102; regulation 5 was amended by regulation 20(2) of S.I. 2002/2366 and is amended by regulation 28(4) of S.R. 2008 No. 286
(**19**) Regulation 6 was amended by regulation 20(3) of S.I. 2002/2366
(**20**) S.I. 2001/1004; regulation 60 was amended by regulation 11 of S.I. 2002/2366
(**21**) Sub-paragraph (g) was added by regulation 2(4) of S.R. 1999 No. 267
(**22**) Sub-paragraph (q) was added by regulation 22(4)(a)(ii) of S.R. 2008 No. 286
(**23**) Paragraph (1) was substituted by Article 17(a) of S.R. 1999 No. 472 (C. 36) and amended by regulation 18(a) of S.R. 2003 No. 191, regulation 3(6)(a) of S.R. 2003 No. 224 and regulation 22(5)(a) of S.R. 2008 No. 286