STATUTORY RULES OF NORTHERN IRELAND

2008 No. 406

SOCIAL SECURITY

The Social Security (Child Maintenance Amendments) Regulations (Northern Ireland) 2008

Made - - - - 2nd 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), 132(3) and (4)(b) and 171(1), (2) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 14(2) and (4)(b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**), and now vested in it(**3**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Child Maintenance Amendments) Regulations (Northern Ireland) 2008 and, subject to paragraphs (2) and (3), shall come into operation on 27th October 2008.

(2) In so far as they relate to a particular beneficiary, these Regulations shall come into operation on the first day of the benefit week for that beneficiary that includes 27th October 2008.

(3) Regulations 2(8) and 3(8) shall come into operation immediately after regulation 4 has come into operation.

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

(a) regulation 2(1)(**4**) of the Income Support (General) Regulations (Northern Ireland) 1987(**5**), so far as it relates to regulation 2, and

(b) regulation 1(2)(**6**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**7**), so far as it relates to regulation 3.

(**1**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21) and section 171(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**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318

(**5**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146 and 318, S.R. 1990 No. 346, S.R. 1993 Nos. 167 and 373, S.R 1996 Nos. 202, 288 and 405, S.R. 2000 No. 367, S.R. 2001 Nos. 25 and 29, S.R. 2002 No. 323, S.R. 2003 No.195, S.R. 2004 No. 16 and S.R. 2005 No. 536

(**6**) 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

(5) 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 are amended in accordance with paragraphs (2) to (9).

(2) In the heading to each of the following regulations, before "liable relative" insert "child maintenance or"—

(a) 25 (liable relative payments);

(b) 55 (treatment of liable relative payments);

(c) 58 (calculation of the weekly amount of a liable relative payment), and

(d) 59 (date on which a liable relative payment is to be treated as paid).

(3) In regulation 25(**9**) for "(liable relatives)" substitute "(child maintenance and liable relative payments)".

(4) Omit—

(a) regulation 25A(**10**) (child support);

(b) regulation 60 (liable relative payments to be treated as capital), and

(c) in Part 5 the whole of Chapter 7A(**11**) (child support).

(5) In Part 5 for the heading to Chapter 7 (liable relatives), substitute "child maintenance and liable relative payments".

(6) In regulation 54 (interpretation)—

(a) before the definition of "claimant" insert—

> ""child maintenance" means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—
>
> (a) the Child Support Act 1991(**12**);
>
> (b) the Child Support (Northern Ireland) Order 1991(**13**);
>
> (c) a court order;
>
> (d) a consent order;
>
> (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;";

(b) after the definition of "claimant" insert—

> ""claimant's family" shall be construed in accordance with section 133(1) of the Contributions and Benefits Act(**14**) (interpretation of Part 7 and supplementary provisions);

(**7**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 288, 358 and 503, S.R. 2000 No. 367, S.R. 2001 Nos. 25 and 29, S.R. 2002 No. 323, S.R. 2003 No. 195, S.R. 2004 No.16, S.R. 2005 No. 536 and S.R. 2006 No. 359

(**8**) 1954 c. 33 (N.I.)

(**9**) Regulation 25 was amended by paragraph 7 of Schedule 1 to, S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies)

(**10**) Regulation 25A was inserted by regulation 3 of S.R. 1993 No. 167

(**11**) Chapter 7A was inserted by regulation 4 of S.R. 1993 No. 167 and amended by regulation 6(4) and (5) of S.R. 1996 No. 202, regulation 5(7) of S.R. 1996 No. 405, regulation 2(1)(a) of S.R. 2001 No. 25 and regulation 3(2) of S.R. 2001 No. 29

(**12**) 1991 c. 48

(**13**) S.I. 1991/2628 (N.I. 23)

(**14**) The definition of "Contributions and Benefits Act" was inserted by regulation 4(2)(a) of S.R. 1993 No. 373; section 133(1) was amended by Article 2 of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)),

"housing costs" means, those costs which may be met under regulation 17(1)(e) or 18(1)(f) (housing costs);";

(c) in the definition of "liable relative"(**15**) in paragraph (d) for "by virtue of Article 27(3)(c) of the Order (liability to maintain)" substitute "in the circumstances set out in section 74(6)(c) of the Social Security Administration (Northern Ireland) Act 1992(**16**) (liability to maintain another person)";

(d) after the definition of "liable relative" insert—

""ordinary clothing and footwear" means clothing and footwear for normal daily use but does not include school uniforms;";

(e) in the definition of "payment"(**17**)—

(i) omit "including, except in the case of a discretionary trust, any payment which would be so made or derived upon application being made by the claimant but which has not been acquired by him but only from the date on which it could be expected to be acquired were an application made;";

(ii) for paragraph (e) substitute—

"(e) made to a third party, or in respect of a third party, unless the payment is—

(i) in relation to the claimant or the claimant's family, and

(ii) the payment is in respect of food, ordinary clothing or footwear, fuel, rent, housing costs or water charges;", and

(f) in the definition of "periodical payment"—

(i) in paragraph (a) omit "in pursuance of a court order or agreement for maintenance", and

(ii) in paragraph (c) for "not exceeding" substitute ", after the appropriate disregard under paragraph 69(**18**) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) has been applied to it, that does not exceed".

(7) In regulation 55(**19**) (treatment of liable relative payments) for "except where regulation 60(1) (liable relative payments to be treated as capital) applies" substitute "paragraph 69 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings)".

(8) For regulation 57(**20**) (period over which payments other than periodical payments are to be taken into account) substitute—

"**Period over which payments other than periodical payments are to be taken into account**

57.—(1) The period over which a payment other than a periodical payment (a "non-periodical payment") is to be taken account shall be determined as follows.

paragraph 18 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, paragraph 4 of Schedule 2 of the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and paragraph 99 of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**15**) The definition of "liable relative" was amended by paragraph 12(4) of Schedule 3 to, S.R. 2005 No. 536

(**16**) 1992 c.8

(**17**) The definition of "payment" was amended by regulation 24 of S.R. 1988 No. 146, paragraph 14 of Schedule 1 to, S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies) and paragraph 12(4)(b) of Schedule 3 to, S.R. 2005 No. 536

(**18**) Paragraph 69 was substituted by regulation 2 of S.R. 2004 No.16

(**19**) Regulation 55 was amended by regulation 6(2) of S.R. 1996 No. 202

(**20**) Regulation 57 was amended by regulation 5 of S.R. 1990 No. 346, regulation 5(3) of S.R. 1996 No. 288, regulation 2(b) of S.R. 2000 No. 367, regulation 3 of S.R. 2002 No. 323, paragraph 15 of Schedule 1 to, S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies) and regulation 4 of these Regulations

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) The amount is the aggregate of £2 and—

(a) the amount of income support that would be payable had no payment been made, and

(b) where applicable, the maximum amount of disregard that would apply to the payment under paragraph 69 of Schedule 9.

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 58) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall, subject to paragraphs (6) and (7), be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{A}{B-C}$$

(6) If the liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{D}{B-E}$$

(8) The period under paragraph (2) or (4) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a child maintenance or liable relative payment is to be treated as paid) and the period under paragraphs (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

A = the amount of the non-periodical payment;

B = the aggregate of £2 and the amount of income support that would be payable had the periodical payment not been made and, where applicable, the maximum disregard under paragraph 69 of Schedule 9;

C = the weekly amount of the periodical payment;

D = the balance (if any) of the non-periodical payment, and

E = the weekly amount of any subsequent periodical payment.".

(9) In paragraph 69 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) for sub-paragraphs (3) and (4) substitute—

"(3) No more than £20 shall be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 55 to 59 (child maintenance and liable relatives).

(4) In this paragraph, "child maintenance" shall have the same meaning as in regulation 54.".

Amendment of the Jobseeker's Allowance Regulations

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

(2) In the heading to each of the following regulations, before "liable relative" insert "child maintenance or"—

(a) 89 (liable relative payments);

(b) 118 (treatment of liable relative payments);

(c) 122 (calculation of the weekly amount of a liable relative payment), and

(d) 123 (date on which a liable relative payment is to be treated as paid).

(3) In regulation 89(**21**) for "(liable relatives)" substitute "(child maintenance and liable relative payments)".

(4) Omit—

(a) regulation 90 (child support);

(b) regulation 124 (liable relative payments to be treated as capital), and

(c) in Part 8 the whole of Chapter 8(**22**) (child support).

(5) In Part 8 for the heading to Chapter 7 (liable relatives), substitute "child maintenance and liable relative payments".

(6) In regulation 117 (interpretation)—

(a) before the definition of "claimant" insert—

> ""child maintenance" means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—
>
> (a) the Child Support Act 1991;
>
> (b) the Child Support (Northern Ireland) Order 1991;
>
> (c) a court order;
>
> (d) a consent order;
>
> (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;";

(b) after the definition of "claimant" insert—

> ""claimant's family" shall be construed in accordance with Article 2(2) (interpretation) of the Jobseekers (Northern Ireland) Order 1995;
>
> "housing costs" means those costs which may be met under regulation 83(f) or 84(1)(g) (housing costs);";

(c) after the definition of "liable relative" insert—

> ""ordinary clothing and footwear" means clothing and footwear for normal daily use but does not include school uniforms;";

(**21**) Regulation 89 was amended by paragraph 7 of Schedule 2 to S.R. 2003 No. 195 (except in a case where regulation 1(7) of those Regulations applies)

(**22**) Part 8, Chapter 8 was amended by regulation 2(13) of S.R. 1996 No. 503, regulation 2(2)(a) of S.R. 2001 No. 25 and regulation 4(2) of S.R. 2001 No. 29