STATUTORY RULES OF NORTHERN IRELAND

2008 No. 112

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2008

Made - - - - 12th March 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)(d) and (e), 131(1), 132(3) and (4)(a) to (c), 133(2)(d) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(q) and 165(1) and (3) to (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 6(5), 14(2) and (4)(a) and (b) and 36(2) of, and paragraphs 1(2)(a) and 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), and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**5**).

Regulation 6 is made with the consent of the Department of Finance and Personnel(**6**).

The Social Security Advisory Committee has agreed that proposals in respect of regulation 6 should not be referred to it(**7**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2008 and, subject to paragraphs (2) and (3), shall come into operation on 14th April 2008.

(**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**) 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 and section 165(3) was amended by paragraph 10 of Schedule 4 to the Tax Credits Act 2002

(**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 (c. 8)

(2) This regulation and regulations 2(6), (16)(b) and (17)(c), 4(10), (15)(a) and (16)(b), 6(3) and (6)(a) and (7)(b), 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 7th April 2008.

(3) Regulation 4(13)(a) and (b) in so far as it relates to a particular beneficiary, shall come into operation on 7th April 2008, immediately after Article 22(3) of and Schedule 10 to the Social Security Benefits Up-rating Order (Northern Ireland) 2008(**8**) comes into operation.

(4) In paragraph (2) "benefit week" has the same meaning as in—

(a) regulation 2(1)(**9**) of the Income Support (General) Regulations (Northern Ireland) 1987(**10**) so far as it relates to regulations 2(6) and (16)(b) and (17)(c);

(b) regulation 1(2)(**11**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**12**), so far as it relates to regulations 4(10), (15)(a) and (16)(b); and

(c) regulation 2(1) of the Housing Benefit Regulations (Northern Ireland) 2006(**13**) in so far as it relates to regulations 6(3), (6)(a) and (7)(b).

(5) 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 (17).

(2) In regulation 2(1) (interpretation)(**15**) omit the definition of "Preparation for Employment Programme for 50 plus".

(3) In regulation 5(5)(**16**) (persons treated as engaged in remunerative work) for "35(1)(b) to (d) and (j)" substitute "35(1)(b) and (d)".

(4) In regulation 13 (circumstances in which persons in relevant education are to be entitled to income support)—

(a) in paragraph (2)(**17**) after "a person who" insert "(subject to paragraph (2A))"; and

(b) after paragraph (2) insert—

"(2A) For the purposes of paragraph (2)—

(a) the eligible person shall be treated as satisfying the condition prescribed in regulation 8 of the Child Benefit (General) Regulations 2006(**18**) (child benefit not payable in respect of qualifying young person: other financial support);

(**8**) S.R. 2008 No. 92
(**9**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**10**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 249, 365 and 395, S.R. 1990 Nos. 131 and 387, S.R. 1991 No. 338, S.R. 1993 No. 120, S.R. 1996 Nos. 199 and 449, S.R. 1997 Nos. 22 and 541, S.R. 1998 Nos. 2, 81182 and 326, S.R. 1999 Nos. 371 (C. 28) and 390, S.R. 2000 No. 109, S.R. 2001 No. 151, S.R. 2002 Nos. 203, 275 and 363, S.R. 2003 Nos. 195 and 338, S.R. 2005 No.319 (C. 23), S.R. 2006 No. 128, S.R. 2007 No. 396 and S.R. 2008 No. 92
(**11**) 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
(**12**) S.R 1996 No. 198; relevant amending Rules are S.R. 1996 Nos. 358 and 503, S.R. 1997 Nos. 22 and 541, S.R. 1998 Nos. 2 and 326, S.R. 1999 No. 107, S.R. 2000 Nos. 109 and 350, S.R.2001 Nos. 78 and 151, S.R. 2002 No. 388, S.R. 2003 Nos. 195 and 338, S.R. 2004 No. 143, S.R. 2005 No. 319 (C. 23), S.R. 2006 No. 359, S.R. 2007 No. 396 and S.R. 2008 No. 92
(**13**) S.R. 2006 No. 405; relevant amending Regulation is S.R. 2007 No. 396
(**14**) 1954 c. 33 (N.I.)
(**15**) The definition of "Preparation for Employment Programme for 50 plus" was inserted by regulation 2(a) of S.R. 2001 No. 151
(**16**) Paragraph (5) was amended by regulation 3 of S.R. 1988 No. 431, regulation 3 of S.R. 1989 No. 365 and regulation 4(3)(a) of S.R. 2007 No. 396
(**17**) Paragraph (2) was amended by regulation 6(a) of S.R. 1991 No. 338 and regulation 2(3)(a) of S.R. 2006 No. 128
(**18**) S.I. 2006/223.

(b) where sub-paragraphs (c) to (e) apply, the eligible person shall be treated as satisfying the condition prescribed in regulation 5(2)(e) and (f) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 year olds).".

(5) In regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings)—

(a) for sub-paragraph (2)(a)(**19**) substitute—

"(a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;

(aa) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;"; and

(b) omit paragraphs (4B) and (4D)(b)(**20**).

(6) In regulation 30 (calculation of earnings of self-employed earners)—

(a) in paragraph (2) for "royalties or sums paid periodically for or in respect of any copyright" substitute "any items to which paragraph (2A) applies"; and

(b) after that paragraph insert—

"(2A) This paragraph applies to—

(a) royalties;

(b) sums paid periodically for or in respect of any copyright;

(c) payments in respect of any book registered under the Public Lending Right Scheme 1982(**21**).".

(7) In regulation 35 (earnings of employed earners) omit paragraphs (1)(j)(i), (1A) and paragraph (3)(b)(**22**).

(8) In regulation 42 (notional income) omit paragraph 4ZA(c)(ia)(**23**).

(9) In each of the following provisions omit "or in the Preparation for Employment Programme for 50 plus"—

(a) regulation 42(6A)(b)(i)(**24**) (notional income); and

(b) in Schedule 3 (housing costs)—

(i) paragraph 4(4A)(a)(**25**), and

(ii) paragraph 14(1)(ee)(i), (3ZA)(a) and (3B)(**26**).

(10) In regulation 48 (income treated as capital) omit paragraph (11)(**27**).

(**19**) The amendment relevant to paragraph (2)(a) is regulation 5(1)(a) of S.R. 1997 No. 22

(**20**) Paragraphs (4B) and (4D) were inserted by regulation 9(c) of S.R. 1989 No. 365 and paragraph (4B) was amended by regulation 4(5) of S.R. 2007 No. 396

(**21**) S.I. 1982/719

(**22**) Paragraphs (1)(j)(i) and (1A) were added by regulation 11(a)(iii) of S.R. 1989 No. 365; paragraph (3) was added by regulation 11(b) of S.R. 1989 No. 365 and amended by regulation 4(6)(b)(ii) of S.R. 2007 No. 396

(**23**) Paragraph (4ZA) was inserted by regulation 2(2)(b) of S.R 1998 No. 326 and head (ia) was inserted by regulation 13(4) and (5)(b) of S.R. 2001 No. 151

(**24**) Paragraph (6A) was inserted by regulation 2(2)(b) of S.R. 1999 No. 390, sub-paragraph (b) was substituted by regulation 3(a) of S.R. 2000 No. 109 and amended by regulation 13(6) and (7)(b) of S. R. 2001 No. 151

(**25**) Sub-paragraph (4A) was inserted by regulation 16(2) of S.R. 1997 No. 541 and amended by regulation 12(a) of S.R. 2001 No. 151

(**26**) Head (ee) was inserted by regulation 16(3)(a) of S.R. 1997 No. 541 and amended by regulation 3(5) of S.R. 1998 No. 182 and regulation 12(b)(i) of S.R. 2001 No. 151; sub-paragraph (3ZA) was inserted by regulation 16(3)(b) of S.R. 1997 No. 541 and head (a) was amended by regulation 12(b)(ii)(aa) of S.R. 2001 No. 151; sub-paragraph (3B) was inserted by regulation 16(3)(d) of S.R. 1997 No. 541 and amended by regulation 12(b)(iii) of S.R. 2001 No. 151

(**27**) Paragraph (11) was added by regulation 15 of S.R. 1989 No. 365

(11) In regulation 51 (notional capital) omit paragraph (3A)(b)(ia)(**28**).

(12) In regulation 72(2)(**29**) (assessment of income and capital in urgent cases) for "Part III of the Order or Article 3 of the Housing Benefits (Northern Ireland) Order 1983" substitute "Part VII of the Contributions and Benefits Act".

(13) In Schedule 1B (prescribed categories of person) omit paragraphs 26 and 27(**30**).

(14) In Schedule 2 (applicable amounts) in paragraph 7(1)(b)(**31**) for "Department of Economic Development" substitute " Department for Employment and Learning(**32**)".

(15) In Schedule 3 (housing costs)—

(a) in paragraph 14(12)(c)(ii)(**33**) omit the word "or"; and

(b) omit paragraph 14(12)(c)(iii)(**34**).

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

(a) in paragraph 4A(**35**) for "statutory sick pay under Part 1 of the Social Security and Housing Benefits Act 1982" substitute " statutory sick pay under Part XI of, or ";

(b) for paragraph 28(**36**) substitute—

"**28.**—(1) Any payment made by an authority in accordance with Article 18, 34C, 34D or 35A of the Children Order (general duty of an authority to promote the welfare of children or powers to grant financial assistance to persons looked after or in, or formerly in, its care).

(2) Any payment (or part of a payment) made by an authority in accordance with Article 34D of the Children Order to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

(a) to whom section 125 of the Contributions and Benefits Act (trade disputes) applies; or

(b) in respect of whom section 122(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 126 of that Act (effect of return to work).

(5) Sub-paragraph (2) applies only where A—

(a) was formerly in the claimant's care, and

(b) is aged 18 or over, and

(c) continues to live with the claimant.";

(c) omit paragraphs 41 and 42(**37**); and

(**28**) Paragraph (3A) was inserted by regulation 3(2)(b) of S.R. 1998 No. 326; head(ia) was inserted by regulation 13(8) and 9(b) of S.R. 2001 No. 151
(**29**) Regulation 72(2) was amended by regulation 13(c) of S.R. 1988 No. 431, regulation 2(4)(b) of S.R.1996 No. 449, regulation 12(1)(b) of 1998 No. 81
(**30**) Schedule 1B was inserted by regulation 22 of and Schedule 1 to S.R. 1996 No. 199; paragraphs 26 and 27 were amended by Article 9(4)(c) of S.R. 1999 No. 371 (C. 28)
(**31**) Paragraph 7(1)(b) was amended by regulation 6(e) of S.R. 1989 No. 395 and regulation 3(5)(a) of S.R. 1990 No. 387
(**32**) *See* Article 4(b) of S.R. 1999 No. 481 and section 1 of the Department for Employment and Learning Act (Northern Ireland) 2001 (c. 15 (N.I.))
(**33**) Sub-paragraph (12)(c)(ii) was amended by paragraph 12(b)(iv) of S.R. 2001 No. 151
(**34**) Sub-paragraph (12)(c)(iii) was added by paragraph 12(b)(iv) of S.R. 2001 No. 151
(**35**) Paragraph 4A was inserted by regulation 36(a) of S.R. 1988 No. 146 and amended by regulation 2(6)(b) of S.R. 2002 No. 363
(**36**) Paragraph 28 was amended by regulation 36(c) of S.R. 1988 No. 146, regulation 12 of S.R. 1989 No. 249, regulation 2(8)(d) of S.R. 1998 No. 2 and Article 3(2) of and paragraph 3(b)(i) of Schedule 1 to S.R. 2005 No. 319 (C. 23)
(**37**) Paragraphs 41 and 42 were added by regulation 20(b) of S.R. 1988 No. 431

(d) in paragraph 46(**38**) omit "a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) or reduction of".

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

(a) in paragraph 7(1) for head (b)(**39**) substitute—

"(b) an income-related benefit or an income-based jobseeker's allowance, child tax credit or working tax credit under Part 1 of the Tax Credits Act 2002(**40**).";

(b) in paragraph 10 omit "supplementary benefit or";

(c) for paragraph 17(**41**) substitute—

"**17.**—(1) Any payment made by an authority in accordance with Article 18, 34C, 34D or 35A of the Children Order (general duty of an authority to promote the welfare of children and powers to grant financial assistance to persons looked after or in, or formerly in, its care).

(2) Any payment (or part of a payment) made by an authority in accordance with Article 34D of the Children Order to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

(a) to whom section 125 of the Contributions and Benefits Act (trade disputes) applies; or

(b) in respect of whom section 122(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 126 of that Act (effect of return to work).

(5) Sub-paragraph (2) applies only where A—

(a) was formerly in the claimant's care, and

(b) is aged 18 or over, and

(c) continues to live with the claimant.";

(d) omit paragraphs 32 and 33(**42**); and

(e) in paragraph 36(**43**) omit "a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (reduction of liability for personal community charge) or reduction of".

(**38**) Paragraph 46 was added by regulation 20(e) of S.R. 1990 No. 131 and amended by regulation 4(7)(c) of S.R. 1993 No. 120 and regulation 4(12)(c) of S.R. 2007 No. 396

(**39**) Head (b) was amended by regulation 26 of S.R. 1996 No. 199, paragraph 24(a) of Schedule 1 to S.R. 2003 No. 195, regulation 2(4) of S.R. 2003 No. 338

(**40**) 2002 c. 21

(**41**) Paragraph 17 was amended by regulation 37(d) of S.R. 1988 No. 146, regulation 12 of S.R. 1989 No. 249, regulation 2(9) of S.R. 1998 No. 2 and paragraph 3(b)(ii) of Schedule 1 to S.R. 2005 No. 319 (C. 23)

(**42**) Paragraphs 32 and 33 were added by regulation 21(b) of S.R. 1988 No. 431

(**43**) Paragraph 36 was added by regulation 21(a) of S.R. 1990 No. 131 and amended by regulation 4(8)(b) of S.R 1993 No. 120 and regulation 4(13)(a) of S.R. 2007 No. 396