STATUTORY RULES OF NORTHERN IRELAND

2007 No. 306

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2007

Made - - - -	*20th June 2007*
Coming into operation	*16th July 2007*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 22(5), 122(1)(a) and (d), 132(3) and (4)(a) and (b), 132A(3) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(h) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 14(1), (4)(a) and (b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**).

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

The Social Security Advisory Committee has agreed that proposals in respect of regulations 5 and 6 should not be referred to it(**6**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2007 and shall come into operation on 16th July 2007.

(2) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1992 c. 7; section 22(5) was amended by paragraph 5 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(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21) and section 171(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(**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**) *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

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

(**7**) 1954 c. 33 (N.I.)

Amendment of the Social Security (Credits) Regulations

2.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**8**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) in the definition of "reckonable year"(**9**), in paragraph (a), after "widowed mother's allowance," insert "widowed parent's allowance, bereavement benefits,".

(3) In regulation 8B(2)(a)(i)(**10**) (credits for incapacity for work) omit the words from "or would" to the end.

Amendment of the Income Support (General) Regulations

3.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**11**) are amended in accordance with paragraphs (2) to (8).

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

(a) in the definition of "pension fund holder"(**12**)—

(i) for "retirement annuity contract" substitute "an occupational pension scheme", and

(ii) omit "or contract";

(b) for the definition of "personal pension scheme"(**13**) substitute—

""personal pension scheme" means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes (Northern Ireland) Act 1993(**14**);

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(**15**) or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004(**16**);

(c) a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;";

(c) omit the definition of "retirement annuity contract"(**17**); and

(d) in the definition of "war widower's pension"(**18**), for "section 315(2)(e) of the Income and Corporation Taxes Act 1988" substitute "section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003(**19**)".

(**8**) S.R. 1975 No. 113; relevant amending Regulations are S.R. 1996 No. 430 and S.R. 2003 No. 151
(**9**) The definition of "reckonable year" was substituted by regulation 2(2)(d) of S.R. 1996 No. 430
(**10**) Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and paragraph (2)(a)(i) was amended by regulation 2(2)(a) of S.R. 2003 No. 151
(**11**) S.R. 1987 No. 459; relevant amending Rules are S.R. 1992 No. 403, S.R. 1993 No. 373, S.R. 1994 No. 327, S.R. 1995 No. 367, S.R. 1998 No. 182, S.R. 1999 No. 472 (C. 36), S.R. 2001 No. 151, S.R. 2002 No. 128, S.R. 2003 No. 191, S.R. 2005 Nos. 424 and 536 and S.R. 2006 No. 97
(**12**) The definition of "pension fund holder" was inserted by regulation 2(2)(a) of S.R. 1995 No. 367
(**13**) The definition of "personal pension scheme" was inserted by regulation 4(2)(d) of S.R. 1993 No. 373 and amended by regulation 2(2)(b) of S.R. 1995 No. 367
(**14**) 1993 c. 49
(**15**) 1988 c. 1; sections 620 to 622 were repealed by section 326 and Schedule 42, Part 3 of the Finance Act 2004 (c. 12)
(**16**) 2004 c. 12
(**17**) The definition of "retirement annuity contract" was inserted by regulation 2(2)(c) of S.R. 1995 No. 367
(**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 Schedule 3 to S.R. 2005 No. 536
(**19**) 2003 c. 1

(3) In regulation 38(**20**) (calculation of net profit of self-employed earners), in paragraphs (1)(b)(ii), (3)(c) and (9)(b) omit "a retirement annuity contract or".

(4) In regulation 39(1)(**21**) (deduction of tax and contributions for self-employed earners)—

(a) for "personal relief" in each place substitute "personal allowance"; and

(b) for "sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970" substitute "section 257(1) of the Income and Corporation Taxes Act 1988".

(5) In regulation 39D(**22**) (deduction in respect of tax for participants in the self-employment route)—

(a) for paragraph (1)(b) substitute—

"(b) the personal allowance applicable to the person receiving assistance under the self-employment route by virtue of section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) is allowable against that income."; and

(b) in paragraph (2) for "personal relief" substitute "personal allowance".

(6) In regulation 42 (notional income)—

(a) in paragraph (2)(g)(**23**) omit ", retirement annuity contract";

(b) in paragraph (2ZA)(a)(**24**) omit ", a retirement annuity contract";

(c) for paragraph (2A)(**25**) substitute—

"(2A) This paragraph applies where a person aged not less than 60—

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder;

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

(2AA) Where paragraph (2A) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.";

(d) in paragraph (2B)(**26**) for "to which either head (2A)(a)(i) or (ii)" substitute "where paragraph (2A)(c)(i) or (ii)";

(e) in paragraph (2C)(**27**)—

(**20**) Regulation 38(1)(b)(ii), (3)(c) and (9)(b) were substituted by regulation 4(12)(a) of S.R. 1993 No. 373 and paragraphs (1)(b)(ii) and (3)(c) were also amended by regulation 2(7) of S.R. 1994 No. 327

(**21**) Regulation 39(1) was amended by regulation 4(7) of S.R. 1992 No. 403 and regulation 2(8) of S.R. 1994 No. 327

(**22**) Regulation 39D was inserted by regulation 3(3) of S.R. 1998 No. 182 and amended by regulation 14(3)(c) of S.R. 2001 No. 151

(**23**) Paragraph (2)(g) was added by regulation 2(4)(a) of S.R. 1995 No. 367 and amended by regulation 2(3)(a) of S.R. 2005 No. 424 and regulation 2(2)(a) of S.R. 2006 No. 97

(**24**) Paragraph (2ZA) was inserted by regulation 2(3)(b) of S.R. 2005 No. 424 and amended by regulation 2(2)(b) of S.R. 2006 No. 97

(**25**) Paragraph (2A) was substituted by regulation 2(3)(b) of S.R. 2005 No. 424

(**26**) Paragraph (2B) was inserted by regulation 2(4)(b) of S.R. 1995 No. 367 and amended by Article 7(2) of S.R. 1999 No. 472 (C. 36)

(**27**) Paragraph (2C) was inserted by regulation 2(4)(b) of S.R. 1995 No. 367 and amended by regulation 24(2) of S.R. 2003 No. 191 and regulation 2(3)(c) of S.R. 2005 No. 424

(i) for "to which either head (2A)(a)(iii) or sub-paragraph (2A)(b)" substitute "where paragraph (2A)(c)(iii)", and

(ii) omit ", or retirement annuity contract"; and

(f) in paragraph (8)(a)(**28**)—

(i) for "personal relief" in each place substitute "personal allowance", and

(ii) for "sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970" substitute "section 257(1) of the Income and Corporation Taxes Act 1988".

(7) In regulation 51(2)(d)(**29**) (notional capital) omit "or retirement annuity contract".

(8) In Schedule 10 (capital to be disregarded) in paragraph 23A(**30**) omit "or retirement annuity contract".

Amendment of the Jobseeker's Allowance Regulations

4.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**31**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2)(**32**) (interpretation) in the definition of "war widower's pension" insert at the end "or a pension or allowance for a widower or surviving civil partner granted under any scheme mentioned in section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003".

(3) In regulations 102(1) (deduction of tax and contributions for self-employed earners), 102D(**33**) (deduction in respect of tax for participants in the self-employment route) and 105(15) (notional income)—

(a) for "personal relief" or "personal reliefs" in each place substitute "personal allowance"; and

(b) for "sections 257(1), 257A(1) and 259" in each place substitute "section 257(1)".

(4) In regulation 105 (notional income)—

(a) for paragraph (3)(**34**) substitute—

"(3) This paragraph applies where a person aged not less than 60—

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder;

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

(**28**) Paragraph (8)(a) was amended by regulation 4(8) of S.R. 1992 No. 403 and regulation 2(8) of S.R. 1994 No. 327
(**29**) Sub-paragraph (d) was added by regulation 2(5) of S.R. 1995 No. 367
(**30**) Paragraph 23A was inserted by regulation 2(10)(b) of S.R. 1995 No. 367
(**31**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1998 No. 182, S.R. 1999 No. 428 (C. 32), S.R. 2001 No. 151, S.R. 2002 No. 128 and S.R. 2005 Nos. 424 and 536
(**32**) The definition of "war widower's pension" was inserted by regulation 4(2) of S.R. 2002 No. 128 and amended by paragraph 23(2)(d) of Schedule 3 to S.R. 2005 No. 536
(**33**) Regulation 102D was inserted by regulation 4(4) of S.R. 1998 No. 182 and amended by regulation 14(4)(c) of S.R. 2001 No. 151
(**34**) Paragraph (3) was amended by regulation 4(3)(c) of S.R. 2005 No. 424

(3A) Where paragraph (3) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.";

(b) in paragraph (4)(**35**) for "to which head (i) or (ii) of paragraph (3)(a)" substitute "where paragraph (3)(c)(i) or (ii)";

(c) in paragraph (5)(**36**) for "to which head (iii) of paragraph (3)(a), or paragraph (3)(b)" substitute " where paragraph (3)(c)(iii)"; and

(d) in paragraph (17) in the definition of "pension fund holder" after "personal pension scheme" insert "or an occupational pension scheme".

(5) In Schedule 7 (capital to be disregarded) in paragraph 29 omit "or retirement annuity contract".

Amendment of the Housing Benefit Regulations

5.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**37**) are amended in accordance with paragraphs (2) to (7).

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

(a) in the definition of "pension fund holder"—

(i) for "retirement annuity contract" substitute "an occupational pension scheme", and

(ii) omit "or contract";

(b) for the definition of "personal pension scheme" substitute—

""personal pension scheme" means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes (Northern Ireland) Act 1993;

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Taxes Act or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;

(c) a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;"; and

(c) omit the definition of "retirement annuity contract".

(3) In regulation 35(13) (calculation of net profit of self-employed earners) omit "a retirement annuity contract or".

(4) In regulation 39 (notional income)—

(a) in paragraph (2)(c) omit ", retirement annuity contract";

(b) for paragraph (3) substitute—

"(3) This paragraph applies where a person aged not less than 60—

(a) is a member of, or a person deriving entitlement to a pension under, a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(**35**) Paragraph (4) was amended by Article 9(5)(h) of S.R. 1999 No. 428 (C. 32)
(**36**) Paragraph (5) was amended by regulation 4(3)(d) of S.R. 2005 No. 424
(**37**) S.R. 2006 No. 405