STATUTORY RULES OF NORTHERN IRELAND

2007 No. 154

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2007

Made - - - - 9th March 2007

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), 129(2), 131(1) and (2), 132(3) and (4)(a) to (c), 134(1)(a) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 3(2C), 6(5) and (12), 14(1), (2) and (4)(a) to (c) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and sections 2(3)(b) and (7), 17(2)(b) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002(**4**).

Regulations 7 and 8 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 7 and 8 should not be referred to it(**6**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2007.

(2) This regulation and regulations 2(1), (3) to (6), (7)(b)(ii) and (e), (8)(a) and (9), 3(1), (3) to (7), (8)(d) and (j), (9)(a), (11) and (12) , 4, 6, 7 and 8 shall come into force on 2nd April 2007.

(**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)); section 129(2) was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)); section 134(1)(a) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1998/1506 (N.I. 10)); 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 3(2C) was inserted by paragraph 3(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and 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**) 2002 c. 14 (N.I.)

(**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 (c. 8)

(3) Subject to paragraphs (4) and (5), regulations 2(8)(c), 3(9)(c) and 5 shall come into force on 8th April 2007.

(4) Regulations 2(8)(c) and 3(9)(c) shall come into operation immediately after regulation 5.

(5) Regulation 2(8)(c), 3(9)(c) and 5, in so far as they relate to a particular beneficiary, shall not apply on any day in a benefit week to commence for that beneficiary before 9th April 2007.

(6) Subject to paragraphs (7) and (8), regulations 2(2), (7)(a), (b)(i) and (iii), (c), (d) and (f) to (h), (8)(b) to (d), 3(2), (8)(a) to (c), (e) to (i), (k) and (l), (9)(b) and (10) and 9, 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 9th April 2007.

(7) Regulations 2(7)(a), (c) and (f) to (h) and (8)(d), in so far as they relate to a particular beneficiary, shall come into operation immediately after Article 16 of the Up-rating Order 2007 comes into operation.

(8) Regulations 3(8)(a), (c), (e) to (g) and (l), in so far as they relate to a particular beneficiary, shall come into operation immediately after Article 22 of the Up-rating Order 2007 comes into operation.

(9) In this regulation—

"benefit week" has the same meaning as in—

(i) regulation 2(1)(**7**) of the Income Support (General) Regulations (Northern Ireland) 1987(**8**) so far as it relates to regulations 2 and 5(2); and

(ii) regulation 1(2)(**9**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**10**) so far as it relates to regulations 3 and 5(3);

"the Up-rating Order 2007" means the Social Security Benefits Up-rating Order (Northern Ireland) 2007(**11**).

(10) The Interpretation Act (Northern Ireland) 1954(**12**) 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 shall be amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation) after the definition of "lone parent" insert—

""long-term patient" means a person who—

(a) is a patient within the meaning of regulation 21(3); and

(b) has been such a patient for a continuous period of more than 52 weeks;".

(3) In regulation 42(2) (notional income) for sub-paragraph (h)(**13**) substitute—

"(h) any sum to which paragraph 43(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in a way referred to in paragraph 43(1)(a),".

(**7**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**8**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1990 No. 213, S.R. 1993 No. 373, S.R. 1994 No. 327, S.R. 1995 Nos. 67 and 367, S.R. 1997 No. 412, S.R. 1998 No. 324, S.R. 2000 Nos. 242 and 367, S R 2002 Nos. 80, 132 and 323, S.R. 2003 Nos. 191, 195, 261 and 413, S.R. 2004 No. 213, S.R. 2005 Nos. 458 and 580 and S.R. 2006 No. 359
(**9**) 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
(**10**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 503, S.R. 1997 No. 412, S.R. 2000 Nos. 242, 350 and 367, S.R. 2002 Nos. 80, 132, 236 and 323, S.R. 2003 Nos. 195 and 261, S.R. 2005 Nos. 458 and 580 and S.R. 2006 No. 359
(**11**) S.R. 2007 No. 153
(**12**) 1954 c. 33 (N.I.)
(**13**) Sub-paragraph 2(h) was inserted by regulation 5(4) of S.R. 1997 No. 412

(4) In regulation 51(**14**) (notional capital)—

(a) in paragraph (1) for sub-paragraph (c) substitute—

"(c) any sum to which paragraph 43(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in a way referred to in paragraph 43(1)(a).”; and

(b) in paragraph (2) for sub-paragraph (e) substitute—

"(e) any sum to which paragraph 43(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in a way referred to in paragraph 43(1)(a),”.

(5) In regulation 66B(**15**) (treatment of payments from access funds)—

(a) in paragraph (3) omit "(which has the same meaning as in paragraph 15(2) of Schedule 9)”; and

(b) after paragraph (3) insert—

"(3A) In paragraph (3) "ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

(a) school uniforms, or

(b) clothing or footwear used solely for sporting activities.”.

(6) In regulation 68 (income treated as capital)—

(a) in paragraph (3)(**16**) omit "(which has the same meaning as in paragraph 15(2) of Schedule 9)”; and

(b) after paragraph (3) add—

"(4) In paragraph (3) "ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

(a) school uniforms, or

(b) clothing or footwear used solely for sporting activities.”.

(7) In Schedule 2 (applicable amounts)—

(a) in paragraph 1(1)(c)(**17**) and (2)(c) (personal allowances) for "paragraph 11(a)” substitute "paragraph 11(1)(a)”;

(b) in paragraph 10 (higher pensioner premium)—

(i) in sub-paragraph (1)(**18**), at the beginning, insert "Subject to sub-paragraph (5), ”;

(ii) in sub-paragraph (4)(**19**) omit ", (2)(b)(ii)”, and

(iii) after sub-paragraph (4) add—

"(5) The condition is not satisfied if the claimant's partner to whom sub-paragraph (1) refers is a long-term patient.”;

(**14**) Sub-paragraph (1)(c) and (2)(e) were inserted by regulation 5(4) of S.R. 1997 No. 412

(**15**) Regulation 66B was inserted by regulation 2(5) of S.R. 2000 No. 242 and paragraph (3) was amended by paragraph 9 of Part I of the Schedule to S.R. 2002 No. 132 and paragraph 17 of Schedule 1 to S.R. 2003 No.195 (except in a case where regulation 1(3) of those Regulations applies)

(**16**) Regulation 68(3) was added by regulation 2(6) of S.R. 2000 No. 242, amended by paragraph 10 of Part I of the Schedule to S.R. 2002 No. 132 and substituted by paragraph 17 of Schedule 1 to S.R. 2003 No.195 (except in a case where regulation 1(3) of those Regulations applies)

(**17**) Paragraph 1 was substituted by regulation 2 of S.R. 1990 No. 213

(**18**) Sub-paragraph (1) was substituted by regulation 24(5)(c) of S.R. 2003 No. 191 and amended by regulation 2(a) of S.R. 2003 No. 413

(**19**) Sub -paragraph (4) was added by regulation 8(3)(a) of S.R. 1998 No. 324 and amended by regulation 5(6)(a) of S.R. 2006 No.359

(c) in paragraph 11(**20**) (disability premium)—

(i) renumber paragraph 11 as paragraph 11(1),

(ii) in renumbered sub-paragraph (1), at the beginning, insert "Subject to sub-paragraph (2), ", and

(iii) after that sub-paragraph add—

"(2) The condition is not satisfied if —

(a) the claimant is a single claimant or a lone parent and, in either case, is a long-term patient;

(b) the claimant is a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or

(c) the claimant is a member of a couple or polygamous marriage and a member of that couple or polygamous marriage is—

(i) a long-term patient, and

(ii) the only member of the couple or polygamous marriage to whom sub-paragraph (1)(b) refers.";

(d) in paragraph 12(1) (additional condition for the higher pensioner and disability premiums) —

(i) in head (b)(ii)(bb)(**21**) for "paragraphs 2A and 2B" substitute "paragraph 2A", and

(ii) in head (d)(**22**) omit "or 2B";

(e) in paragraph 13 (severe disability premium)—

(i) in sub-paragraph (3ZA)(**23**) for "the date on which the award is made" substitute "the date on which the award is first paid", and

(ii) in sub-paragraph (5)(**24**) for "an invalid care allowance" substitute "a carer's allowance";

(f) in paragraph 13A(**25**) (enhanced disability premium) for sub-paragraph (2) substitute—

"(2) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

(a) a child or young person—

(i) whose capital if calculated in accordance with Part V of these Regulations in like manner as for the claimant, except as provided in regulation 44(1), would exceed £3,000, or

(ii) who is a long-term patient;

(b) a single claimant or a lone parent and, in either case, is a long-term patient;

(c) a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or

(d) a member of a couple or polygamous marriage who—

(**20**) Paragraph 11 was amended by regulation 24(5)(d) of S.R. 2003 No. 191 and regulation 2(b) of S.R. 2003 No. 413

(**21**) Head (b) was substituted by regulation 2(12)(a)(ii) of S.R. 1995 No. 67 and amended by regulation 2(8) of S.R. 1995 No. 367 and regulation 3(3)(a) of S.R. 2005 No.580

(**22**) Head (d) was substituted by regulation 24(5)(e) of S.R. 2003 No. 191 and amended by regulation 4 of S.R. 2004 No. 213 and regulation 3(3)(b) of S.R. 2005 No. 580

(**23**) Paragraph 13(3ZA) was inserted by regulation 2(9)(b) of S.R. 1994 No. 327 and amended by regulation 3 of S.R. 2002 No. 323

(**24**) Paragraph 13(5) was added by regulation 3(4) to S R. 2002 No. 80

(**25**) Paragraph 13A was inserted by regulation 2(c)(ii) of S.R. 2000 No. 367 and amended by regulation 24(5)(f) of S.R. 2003 No. 191 and regulation 3(3) of S.R. 2003 No. 261; paragraph 13A(2)(a) was omitted by paragraph 20(c)(ii) of Schedule 1 to S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies)

(i) is a long-term patient, and

(ii) is the only member of the couple or polygamous marriage to whom sub-paragraph (1) refers.";

(g) for paragraph 14(**26**) (disabled child premium) substitute—

"**Disabled Child Premium**

14.—(1) Subject to sub-paragraph (2), the condition is that where the child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household is—

(a) in receipt of disability living allowance or is no longer in receipt of that allowance because he is a patient provided that the child or young person continues to be a member of the family; or

(b) blind or treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2).

(2) The condition is not satisfied in respect of a child or young person—

(a) whose capital, if calculated in accordance with Part V of these Regulations in like manner as for the claimant, except as provided in regulation 44(1), would exceed £3,000; or

(b) who is a long-term patient."; and

(h) in paragraph 15(4) (weekly amounts of premiums specified in Part III)—

(i) in head (a) for "paragraph 11(a)" substitute "paragraph 11(1)(a)", and

(ii) in head (b) for "paragraph 11(b)" substitute "paragraph 11(1)(b)".

(8) In Schedule 7 (applicable amounts in special cases)—

(a) in the heading, for "Regulation 21" substitute "Regulations 21 and 21AA";

(b) omit paragraph 2B(**27**) in Columns (1) and (2);

(c) omit paragraph 3(**28**) in Columns (1) and (2); and

(d) in paragraph 17, Columns (1) and (2), for "paragraph 11(b)" substitute "paragraph 11(1)(b)".

(9) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) in paragraph 30A(1)(**29**) for "whether or not the payment is charitable or voluntary" substitute "except a charitable or voluntary payment disregarded under paragraph 15".

Amendment of the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996 shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 1(2) (interpretation) after the definition of "lone parent" insert—

""long-term patient" means a person who—

(a) is a patient within the meaning of regulation 85(4); and

(**26**) Paragraph 14 was omitted by paragraph 20(a) of Schedule 1 to S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies)

(**27**) Paragraph 2B was substituted by regulation 3(5)(b) of S.R. 2005 No. 580

(**28**) Paragraph 3 was omitted by paragraph 21(d) of Schedule 1 to S.R. 2003 No. 195 (except in a case where regulation 1(3) of those Regulations applies)

(**29**) Paragraph 30A was inserted by regulation 4(22)(e) of S.R. 1993 No. 373 and sub-paragraph (1) was amended by paragraph 12(b)(i) of Schedule 1 to S.R. 2005 No. 458 and regulation 5(9)(e) of S.R. 2006 No. 359