STATUTORY RULES OF NORTHERN IRELAND

2006 No. 365

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2006

Made - - - -	*11th September 2006*
Coming into operation	*2nd October 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(a) to (c) and (q) and 165(1), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 11(3) and (6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**2**) and now vested in it(**3**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2006 and shall come into operation on 2nd October 2006.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**4**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4C(11)(**5**) (making a claim for state pension credit) after "month" insert ", or such longer period as the Department considers reasonable,".

(3) In regulation 6 (date of claim)—

(a) in sub-paragraph (19)(b)(**6**) for "is re-awarded" substitute "is awarded or re-awarded";

(b) for paragraph (20)(**7**) substitute—

(**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)

(**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 (c. 21)

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(**4**) S.R. 1987 No. 465; relevant amending Rules are S.R. 1988 No. 67, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1997 No. 156, S.R. 1999 No. 472 (C. 36), S.R. 2000 Nos. 215 and 365, S.R. 2002 No. 67, S.R. 2003 Nos. 191 and 317 and S.R. 2005 No. 46

(**5**) Regulation 4C was inserted by regulation 4(3) of S.R. 2003 No. 191 and paragraph (11) was amended by regulation 2(4)(b) of S.R. 2003 No. 317

(**6**) Paragraph (19) was substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and amended by regulation 2(2)(d) of S.R. 2002 No. 67

(**7**) Paragraph (20) was substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and amended by regulation 5(4)(a) of S.R. 2005 No. 46

"(20) The circumstances referred to in paragraph (19) are—

(a) that the award of the qualifying benefit has itself been terminated or reduced by means of a revision, supersession, appeal or termination of an award for a fixed period in such a way as to affect the original award; or

(b) at the date the original award was terminated the claimant's claim for a qualifying benefit had not been decided."; and

(c) in paragraph (21)(**8**) for sub-paragraph (b) substitute—

"(b) the further claim is made within three months of the date on which the qualifying benefit is awarded following a claim, whether initially, on revision or on appeal, or re-awarded following revision, supersession, appeal or further claim when an award for a fixed period expires, whether benefit is re-awarded when the further claim is decided or following a revision of, or an appeal against, such a decision.".

(4) In regulation 19(7)(**9**) (time for claiming benefit) after sub-paragraph (i) add—

"(j) the claimant was unable to make telephone contact with the appropriate office where he would be expected to notify his intention of making a claim because the telephone lines to that office were busy or inoperative."

(5) In Schedule 8A(**10**) (deductions from benefits and direct payment to third parties)—

(a) in paragraph 5 (service charges for fuel, and rent not falling within paragraph 2(1)(a)) for sub-paragraph (7)(**11**) substitute—

"(7) Where an amount to be paid to his or his partner's landlord calculated in accordance with sub-paragraph (2), or the aggregate amount calculated in accordance with sub-paragraphs (2) and (5), exceeds a sum calculated in accordance with paragraph 8(3A), a determination that such aggregate amount be paid shall be made only with the consent of the beneficiary and where the beneficiary does not so consent the Department shall determine that an amount calculated in accordance with paragraph 8(3A) shall be paid.";

(b) in paragraph 6 (fuel costs) for sub-paragraph (5)(**12**) substitute—

"(5) Subject to paragraph 8, where the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum calculated in accordance with paragraph 8(3A), a determination that such aggregate amount be paid shall be made only with the consent of the beneficiary and where the beneficiary does not so consent the Department shall determine that an amount calculated in accordance with paragraph 8(3A) shall be paid."; and

(c) in paragraph 8 (aggregate amounts and maximum amount of payment to third parties) for sub-paragraph (3)(**13**)substitute—

2.—"(3) Where the maximum aggregate amount payable under paragraphs 3(2)(a), 5(2), 5(5) and 6(2) or 3(2)(a), 5(2) and 6(2) exceeds a sum calculated in accordance with sub-paragraph (3A), a determination that such aggregate amount be paid shall be

(**8**) 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 5(4)(b) of S.R. 2005 No. 46

(**9**) Regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156 and paragraph (7)(i) was added by regulation 2(5) of S.R. 2000 No. 365

(**10**) Schedule 8A was inserted by S.R. 1988 No. 67; relevant amending Rules are S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1999 No. 472 (C. 36) and S.R. 2003 No. 191

(**11**) Paragraph 5(7) was amended by Article 9(2) of S.R. 1999 No. 472 (C. 36) and regulation 14(1)(c) of S.R. 2003 No. 191

(**12**) Paragraph 6(5) was amended by Article 9(2) of S.R. 1999 No. 472 (C. 36) and regulation 14(1)(d) of S.R. 2003 No. 191

(**13**) Paragraph 8(3) was amended by regulation 7(10)(b) of S.R. 1990 No. 398, regulation 6(7)(f) of S.R. 1991 No. 488, Article 9(2) of S.R. 1999 No. 472 (C. 36) and regulation 14(1)(e) of S.R. 2003 No. 191

made only with the consent of the beneficiary and where the beneficiary does not so consent the Department shall determine that an amount calculated in accordance with sub-paragraph (3A) shall be paid.

(3A) The sum referred to in sub-paragraph (3) is—

(a) where the claimant or his partner does not receive child tax credit, 25 per cent. of the applicable amount or, as the case may be, the appropriate minimum guarantee; or

(b) where the claimant or his partner receives child tax credit, 25 per cent. of the sum of—

(i) the applicable amount or appropriate minimum guarantee which applies to the claimant,

(ii) the amount of child benefit awarded to him or his partner; and

(iii) the amount of child tax credit awarded to him or his partner under section 8 of the Tax Credits Act 2002(**14**),

and that 25 per cent. being, where it is not a whole number of pence, rounded down to the next such penny.".

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(**15**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7(2) (date from which a decision superseded under Article 11 takes effect) after sub-paragraph (bb)(**16**) insert—

"(bc) where the decision is advantageous to the claimant and is made in connection with the cessation of payment of a carer's allowance, the day after the last day for which that allowance was paid; or".

(3) In paragraph 3 of Schedule 2A(**17**) (date from which superseding decision takes effect where a claimant is in receipt of income support or jobseeker's allowance) after sub-paragraph (g) add—

"(h) regulation 9 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**18**) (persons in certain accommodation other than hospitals) applies, or ceases to apply, to the claimant for a period of less than one week.".

Revocations

4. The Regulations specified in column (1) of the Schedule are revoked to the extent mentioned in column (3).

(**14**) 2002 c. 21

(**15**) S.I. 1999 No. 162; relevant amending Regulations are S.R. 2000 No. 215, S.R. 2001 No. 108, S.R. 2002 No. 132 and S.R. 2005 No. 46

(**16**) Sub-paragraph (bb) was inserted by regulation 6(5)(b) of S.R. 2000 No. 215

(**17**) Schedule 2A was inserted by regulation 6(22) of SR. 2000 No. 215 and paragraph 3 was amended by regulation 12(3) of S.R. 2001 No. 108, regulation 6(a) of S.R. 2002 No. 132 and regulation 7(20)(b) of S.R. 2005 No.46

(**18**) S.R. 1992 No. 32; regulation 9 was amended by regulation 3(3)(b) of S.R. 1992 No. 481, regulation 4(2) of S.R. 1993 No. 149, regulation 3(2) of S.R. 1993 No. 165, paragraph 1 of Schedule 17 to S.R. 1994 No. 65, regulation 3(2) of S.R. 1994 No. 263, regulation 3 of S.R. 2002 No. 31, regulation 5(2) of S.R. 2002 No. 132, regulation 3(2) of S.R. 2003 No. 397 and regulation 8 of S.R. 2005 No. 458