STATUTORY RULES OF NORTHERN IRELAND

2006 No. 359

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2006

Made - - - - 7th September 2006

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 30A(2A), 30C(4), 30E(1), 47(6), 64(1), 68(4), 71(6), 86A(1), 122(1)(a) and (d), 123(1)(e), 129(4), 131(1), 132(3) and (4)(b) and (c), 132A(3), 133(2)(h), 167D and 171(1) and (3) to (5) of, and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(m) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Article 6 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**3**) and Articles 6(5), 8(4), 9(2)(a) and (4), 14(2) and (4)(b) and (c) and 36(2) of, and paragraphs 1(2)(b), 8, 8A(1), 12 and 16(1) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**4**), and now vested in it(**5**), paragraphs 4(5) and 20(1) and (3) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**6**) and sections 1(5)(a), 2(3)(b), 7(4), 15(6)(a) and (b), 17(2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(**7**).

Regulation 6 is made with the consent of the Department of Finance and Personnel(**8**).

The Social Security Advisory Committee has agreed that proposals in respect of regulation 6 should not be referred to it(**9**).

(**1**) 1992 c. 7; sections 30A, 30C, 30E, 86A and 167D were inserted respectively by Articles 3(1), 5(1), 4(4) and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); section 30A was amended by Article 61 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 68 was repealed by Part IV of Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 but continues to have effect for existing beneficiaries by virtue of Article 4 of S.R. 2000 No. 332 (C. 14); 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 132A was inserted by section 14 of, and paragraph 3 of Schedule 2 to, the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**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. 1994/1898 (N.I. 12))

(**4**) 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 and paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

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

(**6**) 2000 c. 4 (N.I.)

(**7**) 2002 c. 14 (N.I.)

(**8**) *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

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2006 and, subject to paragraphs (2) to (5), shall come into operation on 1st October 2006.

(2) Regulations 5(2), (7), (8) and (9)(c) and (d), 6(2), (5), (6) and (9), 13(2), (4), (6), (9), (10), (13) and (14)(c) and (d) and 14(2), (3), (4) and (5) shall come into operation on 2nd October 2006.

(3) Regulations 5(3), (4), (9)(a), (b), (e) and (f) and (10), 6(3), (4), (10) and (11), 13(7), (8), (14)(a), (b), (e) and (f) and (15) and 14(6) 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 2nd October 2006.

(4) Regulation 5(5)(a) shall come into operation on 7th October 2006.

(5) Regulations 2, 5(6), 6(7) and (8), 9(2), 11, 12(3) and (5), 13(12) and 15 shall come into operation on 9th October 2006.

(6) In paragraph (3) "benefit week" has the same meaning as in—

(a) regulation 2(1)(**10**) of the Income Support (General) Regulations (Northern Ireland) 1987(**11**) so far as it relates to regulation 5;

(b) regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(**12**) so far as it relates to regulation 6;

(c) regulation 1(2)(**13**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**14**) so far as it relates to regulation 13;

(d) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(**15**) so far as it relates to regulation 14.

(7) The Interpretation Act (Northern Ireland) 1954(**16**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

2. In regulation 3A of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**17**) (calculating periods of incapacity for work for welfare to work beneficiaries entitled to an addition to long-term incapacity benefit) for "52 weeks" substitute "104 weeks".

(**10**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318
(**11**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 318 and 431, S.R. 1990 Nos. 131, 305 and 346, S.R. 1993 Nos. 165 and 373, S.R. 1994 No. 327, S.R. 1995 Nos. 301 and 434, S.R. 1996 Nos. 93, 199 and 405, S.R. 1997 Nos. 165 and 412, S.R. 1998 Nos. 2, 81, and 324, S.R. 1999 Nos. 249 and 315, S.R. 2000 No. 242, S.R. 2001 No. 78, S.R. 2002 Nos. 132 and 299, S.R. 2005 No. 458 and S.R. 2006 No. 234
(**12**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 424, S.R. 1990 Nos. 136 and 345, S.R. 1994 No. 335, S.R. 1996 Nos. 93, 111 and 181, S.R. 1997 No. 412, S.R. 1998 Nos. 2, 81 and 324, S.R. 2001 Nos. 215 and 238, S.R. 2003 Nos. 197 and 418, S.R. 2004 Nos. 46 and 144 and S.R. 2005 No. 444
(**13**) The definition of "benefit week " was amended by regulation 2(2) of S.R. 1996 No. 358 and regulation 2(2)(a) of S.R. 1996 No. 503
(**14**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 1997 Nos. 130 and 412, S.R. 1998 Nos. 2, 81 and 324, S.R. 1999 Nos. 249 and 315, S.R. 2000 Nos. 242 and 350, S.R. 2001 No. 78, S.R. 2002 Nos. 132 and 299, S.R. 2005 No. 458 and S.R. 2006 No. 234
(**15**) S.R. 2003 No. 28; relevant amending Rules are S.R. 2006 Nos. 104 and 109
(**16**) 1954 c. 33 (N.I.)
(**17**) S.R. 1979 No. 243; regulation 3A was inserted by regulation 5 of S.R. 1998 No. 324

Amendment of the Social Security (General Benefit) Regulations

3. In regulation 14 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(**18**) (earnings level for the purpose of unemployability supplement) for "£4,212·00" substitute "£4,472·00".

Amendment of the Social Security (Severe Disablement Allowance) Regulations

4. In regulation 3(1) of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(**19**) (conditions relating to residence and presence) omit from the word "and" after sub-paragraph (a)(iii) to the end.

Amendment of the Income Support (General) Regulations

5.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 35(1)(k)(**20**) (earnings of employed earners) for "regulation 18(22) to (25) of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (calculation of earnings)" substitute "Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001"(**21**).

(3) In regulation 48(4)(**22**) (income treated as capital) for "or 25 to 28" substitute ", 25 to 28 or 43".

(4) In regulation 65(**23**) (relationship with amounts to be disregarded under Schedule 9) omit from "and any other income" to the end.

(5) In Schedule 1B(**24**) (prescribed categories of person)—

(a) omit paragraph 16(**25**) (certain persons aged 50 who have not been in remunerative work for 10 years); and

(b) for paragraph 19(**26**) (persons required to attend a court or tribunal) substitute—

"**Persons required to attend a court or tribunal**

19.—(1) A person who is required to attend a court or tribunal as a justice of the peace, a lay magistrate, a party to any proceedings, a witness or a juror.

(2) In this paragraph "tribunal" means—

(a) any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992(**27**); or

(b) any tribunal established under an enactment.".

(6) In—

(a) paragraphs 10(4)(**28**) and 12(1A)(**29**) of Schedule 2 (applicable amounts); and

(**18**) S.R. 1984 No. 92; relevant amending Regulations are S.R. 2005 No. 415
(**19**) S.R. 1984 No. 317; regulation 3(1) was substituted by regulation 2 of S.R. 1992 No. 114 and amended by regulation 4(a) of S.R. 2000 No. 71
(**20**) Sub-paragraph (k) was added by regulation 2(4)(a) of S.R. 1999 No. 249
(**21**) S.I. 2001/1004
(**22**) Paragraph (4) was amended by regulation 10(a) of S.R. 1988 No. 431
(**23**) Regulation 65 was amended by regulation 12 of S.R. 1990 No. 131 and regulation 7(a) of S.R. 1996 No. 93
(**24**) Schedule 1B was inserted by regulation 22 of, and Schedule 1 to, S.R. 1996 No. 199
(**25**) Paragraph 16 was amended by regulation 2 of S.R. 1997 No. 165
(**26**) Paragraph 19 was substituted by regulation 2 of S.R. 2006 No. 234
(**27**) 1992 c. 53
(**28**) Sub-paragraph (4) was added by regulation 8(3)(a) of S.R. 1998 No. 324
(**29**) Sub-paragraph (1A) was inserted by regulation 8(3)(b) of S.R. 1998 No. 324

(b) paragraphs 7(10)(**30**) and 14(3AA)(b)(**31**) and (10)(**32**) of Schedule 3 (housing costs), for "52 weeks" substitute "104 weeks".

(7) In Schedule 3(**33**) (housing costs)—

(a) after paragraph 1(3)(b)(**34**) add—

"; or

(c) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002(**35**).";

(b) in paragraph 3(7)(c) (circumstances in which a person is to be treated as occupying a dwelling as his home) for head (ii) substitute—

"(ii) the move was delayed pending the outcome of an application under Part VIII of the Contributions and Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—

(aa) a member of the claimant's family is aged five or under,

(bb) the claimant's applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2 (applicable amounts), or

(cc) a child tax credit is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002, or"; and

(c) in paragraph 7 (transitional protection) after sub-paragraph 4 insert—

"(4A) For the purposes of sub-paragraphs (3) and (4), there is an increase in the amount of existing housing costs where in any benefit week, those costs are higher than they were in the previous benefit week (whether or not those costs are higher than they were in the second benefit week).".

(8) In paragraphs 7(1)(d) and 15A(a)(**36**) of Schedule 8 (sums to be disregarded in the calculation of earnings) for "Schedule 3 to the Social Security (Contributions) Regulations 1979" substitute "Schedule 6 to the Social Security (Contributions) Regulations 2001".

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

(a) in paragraph 15(**37**)—

(i) for sub-paragraph (1) substitute—

"(1) Subject to sub-paragraph (3) and paragraph 39, any relevant payment made or due to be made at regular intervals.",

(ii) in sub-paragraph (3) for "Sub-paragraphs (1) and (2)" substitute "Sub-paragraph (1)", and

(iii) omit sub-paragraphs (2), (4) and (5);

(**30**) Sub-paragraph (10) was added by regulation 8(4)(a) of S.R. 1998 No. 324
(**31**) Sub-paragraph (3AA) was inserted by regulation 2(1)(b) of S.R. 1999 No. 315
(**32**) Sub-paragraph (10) was added by regulation 8(4)(b) of S.R. 1998 No. 324 and amended by reg 6(b) of S.R. 2001 No. 78
(**33**) Schedule 3 was substituted by regulation 2 of S.R. 1995 No. 301
(**34**) Paragraph 1(3)(b) was amended by regulation 2(3)(a)(ii) of S.R. 1995 No. 434
(**35**) 2002 c. 21
(**36**) Paragraph 15A was inserted by regulation 5(11)(c) of S.R. 1996 No. 405
(**37**) Paragraph 15 was substituted by regulation 20(a) of S.R. 1990 No. 131; sub-paragraph (1) was substituted by regulation 4(22)(b)(i) of S.R. 1993 No. 373 and amended by regulation 7(a) of S.R. 1996 No. 93 and regulation 3(1)(a) of S.R. 2002 No. 299; sub-paragraph (2) was amended by paragraph 17(b)(i) of Part 1 of the Schedule to S.R. 2002 No. 132 and regulation 3(1)(b) of S.R. 2002 No. 299; sub-paragraph (4) was amended by regulation 3(1)(c) of S.R. 2002 No. 299

(b) omit paragraph 15A(**38**);

(c) in paragraph 26(**39**) for sub-paragraph (b) substitute—

"(b) a juvenile justice centre, within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998(**40**), under Article 43(2) of that Order to a person who is caring for a child and with whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order.";

(d) in paragraph 27(**41**) for sub-paragraph (b) substitute—

"(b) made to the claimant or his partner for a person who is not normally a member of the claimant's household but is temporarily in his care by a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.";

(e) in paragraph 30A(**42**) omit "but not a payment to which paragraph 15A applies"; and

(f) in paragraph 36(**43**) for "paragraphs 15(1) and 16" substitute "paragraph 16".

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

(a) in paragraph 12(**44**) after "claimant" insert "or the claimant's partner";

(b) after paragraph 12 insert—

"**12A.**—(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

(a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;

(b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);

(c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).''; and

(c) for paragraph 43(**45**) substitute—

(**38**) Paragraph 15A was inserted by regulation 4(5)(c) of S.R. 1993 No. 165 and amended by paragraph 17(c) of Part I of the Schedule to S.R. 2002 No. 132 and paragraph 12(a) of Schedule 1 to S.R. 2005 No. 458

(**39**) Paragraph 26 was substituted by regulation 2(8)(b) of S.R. 1998 No. 2

(**40**) S.I. 1998/1504 (N.I. 9)

(**41**) Paragraph 27 was substituted by regulation 4(1) and (2)(d) of S.R. 1998 No. 81

(**42**) 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) of Schedule 1 to S.R. 2005 No. 458

(**43**) Paragraph 36 was amended by regulation 20(d) of S.R. 1990 No. 131, regulation 4(4) of S.R. 1990 No. 305, regulation 7(a) of S.R. 1996 No. 93 and regulation 2(8) of S.R. 2000 No. 242

(**44**) Paragraph 12 was substituted by regulation 9(c) of S.R. 1990 No. 346

(**45**) Paragraph 43 was added by regulation 2(11)(b) of S.R. 1994 No. 327 and amended by regulation 7(5) and (6)(d) of S.R. 1997 No. 412