STATUTORY RULES OF NORTHERN IRELAND

2006 No. 168

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2006

Made - - - - 31st March 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 5(1)(a) to (c), (j), (k), (n) and (q), 5A(1) and (6)(c), 71(1)(b), 105A(1A), (1B), (1D) and (1E), 106(1A) to (1D) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 10(4), 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. 2) Regulations (Northern Ireland) 2006 and shall come into operation for the purposes of—

(a) this regulation and regulation 6, on 9th April 2006;

(b) regulations 2(1) to (3) and (7) to (17), 3 to 5 and 7, on 10th April 2006; and

(c) regulation 2(4) to (6), on 24th July 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 (17).

(**1**) 1992 c. 8; section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 71(1) was amended by paragraph 32(2) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)); subsections (1A) to (1G) of section 105A were inserted and section 106(1A) to (1D) was substituted by section 15 of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17 (N.I.)) and 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. 1989 Nos. 40 and 398, S.R. 1993 No. 217, S.R. 1994 No. 484, S.R. 1996 No. 85, S.R. 1999 No. 472 (C. 36), S.R. 2000 No. 215, S.R. 2002 Nos. 67, 297 and 323, S.R. 2003 Nos. 191, 317 and 412, S.R. 2004 No. 378 and S.R. 2005 Nos. 46, 139, 299 and 536

(2) In regulation 2(1) (interpretation) the definitions of "benefit orders", "instrument for benefit payment"(**5**) and "serial order" shall be omitted.

(3) In regulation 4(6A)(**6**) (making a claim for benefit)—

(a) the word "or" after sub-paragraph (b) shall be omitted; and

(b) after sub-paragraph (c) there shall be added—

"or

(d) who has not attained the qualifying age and makes a claim for disability living allowance or carer's allowance.".

(4) In regulation 4C(**7**) (making a claim for state pension credit)—

(a) in paragraph (3) for "by telephone to, or in person at," there shall be substituted "in person at";

(b) in paragraph (6) the words "or by telephone" shall be omitted;

(c) after paragraph (6) there shall be inserted the following paragraphs—

"(6A) A claim for state pension credit may be made by telephone call to the telephone number specified by the Department.

(6B) Where the Department, in any particular case, directs that the person making the claim approves a written statement of his circumstances, provided for the purpose by the Department, a claim made by telephone is not a valid claim unless the person complies with the direction.

(6C) A claim made by telephone in accordance with paragraph (6A) is defective unless the Department is provided, during that telephone call, with all the information it requires to determine the claim.

(6D) Where a claim made by telephone in accordance with paragraph (6A) is defective, the Department shall provide the person making it with an opportunity to correct the defect.

(6E) If the person corrects the defect within one month, or such longer period as the Department considers reasonable, of the date it last drew attention to the defect, the Department shall treat the claim as if it had been duly made in the first instance."; and

(d) in paragraph (12) for "Paragraph (11) does" there shall be substituted "Paragraphs (6E) and (11) do".

(5) In regulation 4E(2)(**8**) (making a claim after attaining the qualifying age: date of claim)—

(a) in sub-paragraph (b) after "4C(3)" there shall be inserted "or (6A)"; and

(b) in sub-paragraph (c) for "4C(11)" there shall be substituted "4C(6E) or (11)".

(6) In regulation 5(1)(**9**) (amendment and withdrawal of claim) after "4(11)" there shall be inserted "or 4C(6A)".

(7) In regulation 6 (date of claim)—

(a) after paragraph (1A)(**10**) there shall be inserted the following paragraphs—

(**5**) The definition of "instrument for benefit payment" was inserted by regulation 2(2) of S.R. 1994 No. 484

(**6**) Paragraph (6A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 317 and amended by regulation 2(4)(a) of S.R. 2005 No. 299

(**7**) Regulation 4C was inserted by regulation 4(3) of S.R. 2003 No. 191 and amended by regulation 2(4) of S.R. 2003 No. 317, regulation 5(3) of S.R. 2005 No. 46 and paragraph 15(4) of Schedule 3 to S.R. 2005 No. 536

(**8**) Regulation 4E was inserted by regulation 4(3) of S.R. 2003 No. 191 and amended by regulation 2(5) of S.R. 2003 No. 317 and regulation 7 of S.R. 2004 No. 394

(**9**) Regulation 5(1) was amended by regulation 2(3) of S.R. 2005 No. 14

(**10**) Paragraph (1A) was inserted by regulation 3(4)(b) of S.R. 1997 No. 156

"(1B) Subject to paragraph (1C) and without prejudice to the generality of paragraph (1), where a properly completed claim for incapacity benefit is received in an appropriate office within one month of the claimant first notifying such an office, by whatever means, of his intention to make that claim, the date of claim shall be the date on which that notification is made or the first day in respect of which the claim is made if later.

(1C) For the purposes of paragraph (1B), a person who has attained the qualifying age may notify his intention and may send or deliver his claim to an office specified in regulation 4(6B).";

(b) in paragraph (17)(**11**) sub-paragraph (b)(**12**) shall be omitted;

(c) in paragraph (22)(**13**) for "and (30)" there shall be substituted ", (30) and (33)";

(d) in paragraph (26) for "and (24)(b) to (d)" there shall be substituted ", (24)(b) to (d) and (30)(c)";

(e) in paragraph (31)(**14**) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

"(c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001(**15**) the contributions are treated as paid on a date earlier than the date on which they were paid; and"; and

(f) after paragraph (32) there shall be added the following paragraph—

"(33) Where a person makes a claim for a carer's allowance within 3 months of a decision made—

(a) on a claim;

(b) on a revision or supersession; or

(c) on appeal whether by an appeal tribunal, a Commissioner or the court,

awarding a qualifying benefit to the disabled person the date of claim is the first day in respect of which that qualifying benefit is payable.".

(8) In regulation 6A(**16**) (claims by persons subject to work-focused interviews)—

(a) in paragraph (2) after sub-paragraph (c) there shall be added the following sub-paragraph —

"(d) without prejudice to sub-paragraphs (a) and (b), where a properly completed claim for incapacity benefit is received in an appropriate office within one month of the claimant first notifying such an office, by whatever means, of his intention to make that claim, the date of claim shall be the date on which that notification is made or the first day in respect of which the claim is made if later."; and

(b) in paragraph (5) for "a person is required to take part in under the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003" there shall be substituted "is conducted for such purposes connected with employment or training as are specified in regulations made under section 2A of the Administration Act".

(**11**) Paragraphs (17), (22) and (26) were substituted by regulation 3(2)(a) of S.R. 2000 No. 215
(**12**) Sub-paragraph (b) was amended by paragraph 2 of the Schedule to S.R. 2002 No. 323
(**13**) Paragraph (22) was amended by regulation 2(2)(f) of S.R. 2002 No. 67 and paragraph 2 of the Schedule to S.R. 2002 No. 323
(**14**) Paragraphs (31) and (32) were added by regulation 2 of S.R. 2004 No. 378 and paragraph (31) was amended by paragraph 15(5) of Schedule 3 to S.R. 2005 No. 536
(**15**) S.R. 2001 No. 102; regulation 6A was inserted by regulation 2(b) of S.R. 2004 No. 223
(**16**) Regulation 6A was inserted by paragraph 4 of Schedule 3 to S.R. 2001 No. 176 and amended by paragraph 1(2) of Schedule 2 to S.R. 2003 No. 274

(9) For regulation 20(**17**) (time and manner of payment: general provision) there shall be substituted the following regulation—

"**Time of payment: general provision**

20. Subject to regulations 21 to 26B, benefit shall be paid in accordance with an award as soon as is reasonably practicable after the award has been made.".

(10) Regulation 20A(**18**) (payment on presentation of an instrument for benefit payment) shall be omitted.

(11) In regulation 21(1)(**19**) (direct credit transfer) after "person claiming or entitled to it" there shall be inserted "or person appointed under regulation 33 or specified in regulation 33(1)(c)".

(12) In regulation 26 (income support)—

(a) in paragraph (1)(**20**) the words "manner in and"; and

(b) paragraphs (2) and (3)(**21**),

shall be omitted.

(13) In regulation 26B(**22**) (state pension credit)—

(a) in paragraph (1) for ", where state pension credit is payable in accordance with paragraph (3)(a), to the provisions of regulation 21 (direct credit transfer)" there shall be substituted "to regulation 21 where payment is by direct credit transfer";

(b) paragraphs (3), (6) and (7) shall be omitted; and

(c) in paragraph (4) for "in accordance with paragraph (3)(b)" there shall substituted "otherwise than in accordance with regulation 21".

(14) In regulation 37(1)(**23**) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period)—

(a) sub-paragraph (aa) shall be omitted; and

(b) in sub-paragraph (c) for "none of sub-paragraphs (a), (aa), (b) or (bb) apply" there shall be substituted "none of sub-paragraphs (a), (b) or (bb) applies".

(15) For regulation 46(**24**) (instruments of payment, etc.) there shall be substituted the following regulation—

"**Instruments of payment**

46.—(1) Instruments of payment issued by the Department shall remain its property.

(2) Any person having an instrument of payment shall, on ceasing to be entitled to the benefit to which the instrument relates, or when so required by the Department, deliver it to the Department or such other person as it may direct.".

(16) In Schedule 7(**25**) (manner and time of payment and commencement of entitlement in income support cases) for the heading and paragraph 1 there shall be substituted—

(**17**) Regulation 20 was amended by regulation 2(3) of S.R. 1994 No. 484
(**18**) Regulation 20A was inserted by regulation 2(4) of S.R. 1994 No. 484 and amended by regulation 2(2) of S.R. 1996 No. 85
(**19**) Paragraph (1) was substituted by regulation 2(2)(a) of S.R. 2002 No. 297
(**20**) Paragraph (1) was amended by regulation 2(3) of S.R. 1993 No. 217 and regulation 3(3) of S.R. 2000 No. 215
(**21**) Paragraphs (2) and (3) were amended by regulation 4(a) and (b) of S.R. 1989 No. 40 and Article 9(7)(b) of S.R. 1999 No. 472 (C. 36)
(**22**) Regulation 26B was inserted by regulation 9 of S.R. 2003 No. 191
(**23**) Regulation 37(1) was amended by regulation 6(2) of S.R. 1989 No. 398, regulation 2(5) of S.R. 1996 No. 85 and regulation 5(8) of S.R. 2005 No. 46
(**24**) Regulation 46 was substituted by regulation 2(8) of S.R. 1994 No. 484
(**25**) The heading to Schedule 7 was amended by regulation 3(5)(a) of S.R. 2000 No. 215 and paragraph 1 was amended by regulation 2(6) of S.R. 1996 No. 85

"Time of payment and commencement of entitlement in income support cases

1. Except as otherwise provided in these Regulations income support shall be paid in arrears in accordance with the award.".

(17) In paragraph 4(2A) of Schedule 8A(**26**) (deductions from benefits and direct payment to third parties) for "£18·80", in each place where it occurs, there shall be substituted "£19·60".

Amendment of the Jobseeker's Allowance Regulations

3. In regulation 24(7) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**27**) (provision of information and evidence) for "in writing (unless the Department determines in any particular case to accept notice given otherwise than in writing) to the appropriate office" there shall be substituted "of the change—

(i) in writing or by telephone (unless the Department determines in any particular case that notice must be in writing or may be given otherwise than in writing or by telephone), or

(ii) in writing if in any class of case it requires written notice (unless it determines in any particular case to accept notice given otherwise than in writing),

to an office of the Department specified by it".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

4.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**28**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3 (revision of decisions)—

(a) in paragraph (7B)(**29**) at the end there shall be added "or lapses";

(b) in paragraph (7C) for "he subsequently appeals the decision that" there shall be substituted "the decision which embodies that determination is revised or he subsequently appeals the decision which"; and

(c) after paragraph (7E)(**30**) there shall be inserted the following paragraph—

"(7F) A decision under regulation 17(1)(d) of the Income Support Regulations that a person is no longer entitled to a disability premium because of a determination that he is not incapable of work may be revised where the decision which embodies that determination is revised or his appeal against the decision is successful.".

(3) In regulation 5(2)(**31**) (date from which a decision revised under Article 10 takes effect) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

"(c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001 the contributions are treated as paid on a date earlier than the date on which they were paid; and".

(4) In regulation 7 (date from which a decision superseded under Article 11 takes effect)—

(**26**) Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67 and paragraph 4(2A) was substituted by regulation 2(e) of S.R. 2003 No. 412 and amended by regulation 2(3)(b) of S.R. 2005 No. 139

(**27**) S.R. 1996 No. 198; regulation 24(7) was amended by regulation 2(4)(b) of S.R. 2000 No. 37 and paragraph 3(e) of Schedule 2 to S.R. 2000 No. 350

(**28**) S.R. 1999 No. 162; relevant amending Regulations are S.R. 1999 No. 473, S.R. 2002 No. 67, S.R. 2003 Nos. 191 and 421, S.R. 2004 No. 378, S.R. 2005 Nos. 46 and 539 and S.R. 2006 No. 104

(**29**) Paragraphs (7B) and (7C) were inserted by regulation 7(2)(b) of S.R. 2005 No. 46

(**30**) Paragraph (7E) is inserted by regulation 9(3) of S.R. 2006 No. 104

(**31**) Regulation 5(2) was added by regulation 3 of S.R. 2004 No. 378 and amended by regulation 7(3) of S.R. 2005 No. 539