STATUTORY RULES OF NORTHERN IRELAND

2004 No. 143

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2004

Made - - - - 26th March 2004

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred on it by sections 113(3), 122(1)(a) and (d), 132(3) and (4)(b) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 2A(1), (3)(c) to (f), (4), (5)(a) and (b), (6), (7) and (8), 2B(2), (6) and (7), 71(1) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 6(5), 14(1) and (4)(b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**5**), in so far as regulations 3 and 8 are concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of those regulations should not be referred to it(**6**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2004.

(2) These Regulations shall come into operation for the purposes of –

(a) regulations 1 to 5, on 1st April 2004;

(b) regulation 6, on 5th April 2004;

(c) regulation 8, on 6th April 2004;

(**1**) 1992 c. 7; section 113(3) was amended by paragraph 48 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) 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 2A and 2B were inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), section 2B(2) was amended by paragraph 6(b) of the Schedule to the Social Security (Northern Ireland) Act 2002 (c. 10) and 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))

(**3**) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by Article 4 of and paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**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

(d) regulation 7, on 12th April 2004; and

(e) regulation 9, in so far as it relates to a claimant for income support or, as the case may be, a jobseeker's allowance, on the first day of the first benefit week to commence for that claimant on or after 12th April 2004.

(3) In paragraph (2)(e) "benefit week" has the same meaning as in –

(a) regulation 2(1) of the Income Support Regulations(**7**), in so far as that paragraph relates to a claimant for income support; and

(b) regulation 1(2) of the Jobseeker's Allowance Regulations(**8**), in so far as that paragraph relates to a claimant for a jobseeker's allowance.

(4) In these Regulations –

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**9**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**10**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**11**).

(5) 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 Regulations in relation to income and capital disregards

2.—(1) The Income Support Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) the definition of "ERA payment"(**13**) shall be omitted.

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

(a) for paragraph 13(**14**) there shall be substituted the following paragraph –

"**13.**—(1) Any payment made pursuant to section 1 or 3 of the Employment and Training Act (Northern Ireland) 1950(**15**) except a payment –

(a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;

(b) of an allowance referred to in section 1(1B) of the Employment and Training Act (Northern Ireland) 1950;

(**7**) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318

(**8**) 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

(**9**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1992 No. 141, S.R. 1993 No. 414, S.R. 1997 No. 541, S.R. 1998 No. 325, S.R. 2001 Nos. 134 and 151, S.R. 2002 No. 275 and S.R. 2003 Nos. 197 and 417

(**10**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1990 No. 387, S.R. 1992 No. 147, S.R. 1993 No. 373, S.R. 1997 No. 541, S.R. 1998 No. 326, S.R. 1999 No. 381, S.R. 2001 Nos. 105, 134 and 151, S.R. 2002 No. 275 and S.R. 2003 Nos. 195, 367 and 417

(**11**) S.R. 1996 No. 198; relevant amending Rules are S.R. 1997 No. 541, S.R. 1998 No. 326, S.R. 2000 No. 350, S.R. 2001 No. 151, S.R. 2002 Nos. 132 and 275 and S.R. 2003 Nos. 155 and 417

(**12**) 1954 c. 33 (N.I.)

(**13**) Definition of "ERA payment" was inserted by regulation 2(2) of S.R. 2003 No. 417

(**14**) Paragraph 13 was substituted by regulation 3(8)(b) of S.R. 1990 No. 387 and amended by regulation 17(7)(b) of S.R. 1997 No. 541 and regulation 13(11)(b) of S.R. 2001 No. 151

(**15**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8)) and section 3 was amended by Article 16 of and Part I of Schedule 4 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and Article 35 of and paragraph 1 of Schedule 3 to the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159 (N.I. 9))

(c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects; or

(d) made in respect of the cost of living away from home to the extent that the payment relates to rent or rates or, as the case may be, both for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(1)(e) (applicable amounts) or 18(1)(f) (polygamous marriages), of the claimant or, where the claimant is a member of a family, any other member of his family.

(3) For the purposes of this paragraph, "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.";

(b) in paragraph 51(**16**) omit from "or in accordance with" to "Act (Northern Ireland) 1950";

(c) in paragraph 68(**17**) omit from "or any payment" to "Act (Northern Ireland) 1950";

(d) paragraphs 60, 60A, 61 and 64 and 73(**18**) shall be omitted.

(4) In Schedule 10 (capital to be disregarded) –

(a) for paragraph 30(**19**) there shall be substituted the following paragraph –

"**30.** Any payment made pursuant to section 1 of the Employment and Training Act (Northern Ireland) 1950, but only for the period of 52 weeks beginning on and including the date of receipt of the payment.";

(b) in paragraph 42(**20**) omit –

(i) ", or a training bonus paid under section 3(3) of the Employment and Training Act (Northern Ireland) 1950", and

(ii) from "or in accordance with" to "Act (Northern Ireland) 1950";

(c) paragraphs 48, 48A, 49, 51 and 65(**21**) shall be omitted.

Amendment of the Housing Benefit Regulations in relation to income and capital disregards

3.—(1) The Housing Benefit Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) the definition of "ERA payment"(**22**) shall be omitted.

(3) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings) –

(**16**) Paragraph 51 was added by regulation 13(b) of S.R. 1992 No. 147

(**17**) Paragraph 68 was added by regulation 2(10) of S.R. 1999 No. 381 and amended by regulation 3(4) of S.R. 2001 No. 134 and prospectively amended by paragraph 23(e) of Schedule 1 to S.R. 2003 No. 195 and regulation 2(d)(iii) of S.R. 2003 No. 367

(**18**) Paragraph 60 was substituted by regulation 13(12) and (13)(b) of S.R. 2001 No. 151; paragraph 60A was inserted by regulation 3(3) of S.R. 2002 No. 275; paragraph 61 was added by regulation 17(9) and (10)(a) of S.R. 1997 No. 541; paragraph 64 was added by regulation 4(4) of S.R. 1998 No. 326 and amended by regulation 2(c)(ii) of S.R. 2001 No. 105 and paragraph 73 was added by regulation 2(4)(c) of S.R. 2003 No. 417

(**19**) Paragraph 30 was substituted by regulation 3(9) of S.R. 1990 No. 387 and amended by regulation 4(23) of S.R. 1993 No. 373

(**20**) Paragraph 42 was added by regulation 14(b) of S.R. 1992 No. 147

(**21**) Paragraph 48 was substituted by regulation 13(14) and (15)(b) of S.R. 2001 No. 151; paragraph 48A was inserted by regulation 3(4) of S.R. 2002 No. 275; paragraph 49 was added by regulation 17(11) and (12)(a) of S.R. 1997 No. 541 and paragraph 65 was added by regulation 2(5)(b) of S.R. 2003 No. 417

(**22**) Definition of "ERA payment" was inserted by regulation 3(2) of S.R. 2003 No. 417

(a) for paragraph 11(**23**) there shall be substituted the following paragraph –

"**11.**—(1) Any payment made pursuant to section 1 or 3 of the Employment and Training Act (Northern Ireland) 1950 except –

(a) a payment made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;

(b) a payment of an allowance referred to in section 1(1B) of the Employment and Training Act (Northern Ireland) 1950;

(c) a payment intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects; or

(d) for the purpose only of assessing entitlement to housing benefit in respect of a dwelling other than the one which the claimant normally occupies as his home, a payment made to a person to whom regulation 5(5)(b) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) applies to the extent that the payment is made in respect of the cost of living away from home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent or rates of the claimant or, where the claimant is a member of a family, any other member of his family.

(3) For the purposes of this paragraph –

"ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities, and

"rent or rates" means eligible rent or rates less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions).";

(b) in paragraph 52(**24**) omit from "or in accordance with" to "Act (Northern Ireland) 1950";

(c) paragraphs 66, 66A, 67, 69 and 75(**25**) shall be omitted.

(4) In Schedule 5 (capital to be disregarded) –

(a) for paragraph 33(**26**) there shall be substituted the following paragraph –

"**33.** Any payment made pursuant to section 1 of the Employment and Training Act (Northern Ireland) 1950, but only for the period of 52 weeks beginning on and including the date of receipt of the payment.";

(b) in paragraph 43(**27**) omit –

(i) ", or a training bonus paid under section 3(3) of the Employment and Training Act (Northern Ireland) 1950", and

(ii) from "or in accordance with" to "Act (Northern Ireland) 1950";

(**23**) Paragraph 11 was substituted by regulation 5(6) of S.R. 1993 No. 414 and amended by regulation 17(7)(b) of S.R. 1997 No. 541 and regulation 13(11)(a) of S.R. 2001 No. 151

(**24**) Paragraph 52 was added by regulation 13(b) of S.R. 1992 No. 141

(**25**) Paragraph 66 was substituted by regulation 13(12) and (13)(a) of S.R. 2001 No. 151; paragraph 66A was inserted by regulation 4(2) of S.R. 2002 No. 275; paragraph 67 was added by regulation 17(9) and (10)(b) of S.R. 1997 No. 541; paragraph 69 was added by regulation 4 of S.R. 1998 No. 325 and paragraph 75 was inserted by regulation 3(5)(c) of S.R. 2003 No. 417

(**26**) Paragraph 33 was substituted by regulation 6 of S.R. 1993 No. 414

(**27**) Paragraph 43 was added by regulation 14(b) of S.R. 1992 No. 141

(c) paragraphs 51, 51A, 52, 54, 60 and 67(**28**) shall be omitted.

Amendment of the Jobseeker's Allowance Regulations in relation to income and capital disregards

4.—(1) The Jobseeker's Allowance Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) the definition of "ERA payment"(**29**) shall be omitted.

(3) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings) –

(a) for paragraph 14 there shall be substituted the following paragraph –

"**14.**—(1) Any payment made pursuant to section 1 or 3 of the Employment and Training Act (Northern Ireland) 1950 except a payment –

(a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;

(b) of an allowance referred to in section 1(1B) of the Employment and Training Act (Northern Ireland) 1950;

(c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects; or

(d) made in respect of the cost of living away from home to the extent that the payment relates to rent or rates or, as the case may be, both for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of his family.

(3) For the purposes of this paragraph, "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.";

(b) in paragraph 50 omit from "or in accordance with" to "Act (Northern Ireland) 1950";

(c) paragraphs 58, 58A, 59, 62 and 69(**30**) shall be omitted.

(4) In Schedule 7 (capital to be disregarded) –

(a) for paragraph 32 there shall be substituted the following paragraph –

"**32.** Any payment made pursuant to section 1 of the Employment and Training Act (Northern Ireland) 1950, but only for the period of 52 weeks beginning on and including the date of receipt of the payment.";

(b) in paragraph 40 omit –

(**28**) Paragraph 51 was substituted by regulation 13(15)(a) of S.R. 2001 No. 151; paragraph 51A was inserted by regulation 4(3) of S.R. 2002 No. 275; paragraph 52 was added by regulation 17(11) and (12)(b) of S.R. 1997 No. 541; paragraph 54 was added by regulation 5 of S.R. 1998 No. 325; paragraph 60 was added by regulation 2(4) of S.R. 2001 No. 134 and paragraph 67 was added by regulation 3(6)(c) of S.R. 2003 No. 417

(**29**) Definition of "ERA payment" was inserted by regulation 4(2) of S.R. 2003 No. 417

(**30**) Paragraph 58 was substituted by regulation 10(b) of S.R. 2001 No. 151; paragraph 58A was inserted by regulation 2(5) of S.R. 2002 No. 275; paragraph 59 was added by regulation 14(b) of S.R. 1997 No. 541; paragraph 62 was added by regulation 4(1) of S.R. 1998 No. 326 and paragraph 69 was added by regulation 4(4)(c) of S.R. 2003 No. 417