STATUTORY RULES OF NORTHERN IRELAND

2003 No. 224

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT

The Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2003

Made - - - - 9th April 2003
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by Article 19(3) and (5) of the Child Support (Northern Ireland) Order 1991(**1**), sections 5(1)(hh), (j) and (k) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 10(1) and 11(3) and (6) of the Social Security (Northern Ireland) Order 1998(**3**), and now vested in it(**4**), and paragraphs 4(3) and (5) and 10(1) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**5**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 and shall come into operation as follows –

(a) this regulation and regulations 2 to 3(4), 3(6) and 4 to 6, on 5th May 2003; and

(b) regulation 3(5) and (7) –

(i) except for the purposes of any type of case referred to in head (ii), on 5th May 2003; and

(**1**) S.I. 1991/2628 (N.I. 23); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**2**) 1992 c. 8; section 5(1)(hh) was inserted by Article 70 of the Social Security (Northern Ireland) Order 1998 and amended by paragraph 21 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) 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)
(**3**) S.I. 1998/1506 (N.I. 10)
(**4**) *See* Article 8(b) of S.R. 1999 No. 481
(**5**) 2000 c. 4 (N.I.)

(ii) for the purposes of any type of case which is not one in relation to which 3rd March 2003 is the appointed day for the coming into operation of section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**6**), on the day on which that section comes into operation in relation to that type of case.

Amendment of the Social Security (Claims and Payments) Regulations

2. In regulation 32 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**7**) (information to be given when obtaining payment of benefit) for the heading and paragraph (1) there shall be substituted –

"**Information to be given and changes to be notified**

32.—(1) Except in the case of a jobseeker's allowance, every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall furnish in such manner and at such times as the Department may determine such information or evidence as it may require for determining whether a decision on the award of benefit should be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order.

(1A) Every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall furnish in such manner and at such times as the Department may determine such information or evidence as it may require in connection with payment of the benefit claimed or awarded.

(1B) Except in the case of a jobseeker's allowance, every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall notify the Department of any change of circumstances which it might reasonably be expected to know might affect –

(a) the continuance of entitlement to benefit; or

(b) the payment of the benefit,

as soon as reasonably practicable after the change occurs by giving notice in writing (unless the Department determines in any particular case to accept notice given otherwise than in writing) of any such change to an appropriate office.".

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(**8**) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation) for the definition of "out of jurisdiction appeal" there shall be substituted the following definition –

""out of jurisdiction appeal" means an appeal brought against a decision which is –

(a) specified in Schedule 2 to the Order or prescribed in regulation 27; or

(b) specified in paragraph 6(2) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 or prescribed in regulation 16 of the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001;".

(**6**) *See* Article 3 of S.R. 2003 No. 53 (C. 4)
(**7**) S.R. 1987 No. 465; regulation 32(1) was amended by regulation 6(3) of S.R. 1992 No. 453 and regulation 2(16)(a) of S.R. 1996 No. 354
(**8**) S.R. 1999 No. 162; relevant amending regulations are S.R. 1999 Nos. 267 and 408, S.R. 2000 Nos. 215 and 365, S.R. 2001 Nos. 23 and 176, S.R. 2002 Nos. 67, 80 and 164 and S.R. 2003 Nos. 84 and 191

(3) In regulation 3(9)(a)(**9**) (revision of decisions) for "was made" there shall be substituted "had effect".

(4) In regulation 6(2)(**10**) (supersession of decisions) –

(a) in sub-paragraph (a)(i) for "was made" there shall be substituted "had effect";

(b) for sub-paragraph (c) there shall be substituted the following sub-paragraph –

"(c) is a decision of an appeal tribunal or of a Commissioner –

(i) that was made in ignorance of, or was based on a mistake as to, some material fact, or

(ii) that was made in accordance with Article 26(4)(b), in a case where Article 26(5) applies;"; and

(c) the word "or" after sub-paragraphs (f) and (g) shall be omitted.

(5) In regulation 6A(**11**) (supersession of child support decisions) after paragraph (4) there shall be inserted the following paragraph –

"(4A) A decision may be superseded by a decision made by the Department –

(a) where an application is made on the basis that; or

(b) acting on its own initiative where,

the decision to be superseded is a decision of an appeal tribunal or of a Child Support Commissioner that was made in accordance with Article 28ZB(4)(b) of the Child Support Order, in a case where Article 28ZB(5) of that Order applies.".

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

(a) in paragraph (1)(a)(**12**) for "and (28)" there shall be substituted ", (28) and (29)";

(b) in paragraph (2) for "was made" there shall be substituted "had effect";

(c) in paragraph (5)(**13**) for "regulation 6(2)(c)" there shall be substituted "regulation 6(2)(c)(i)";

(d) in paragraph (9)(**14**) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

"(a) where the decision is made on the Department's own initiative –

(i) the date on which it commenced action with a view to supersession; or

(ii) subject to paragraph (29), in a case where the relevant circumstances are that there has been a change in the legislation in relation to attendance allowance or disability living allowance, the date on which that change in the legislation had effect;"; and

(e) after paragraph (28)(**15**) there shall be added the following paragraphs –

"(29) Where a decision is superseded in accordance with regulation 6(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to a relevant benefit, the decision under Article 11 shall take effect from the date on which that change in the legislation had effect.

(**9**) Paragraph (9) was substituted by regulation 3(2)(b) of S.R. 1999 No. 408

(**10**) Paragraph (2) was amended by regulation 2(4) of S.R. 1999 No. 267, regulation 3(3)(a) of S.R. 1999 No. 408, regulation 6(4) of S.R. 2000 No. 215, regulation 4(b) of S.R. 2000 No. 365, paragraph 4 of Schedule 4 to S.R. 2001 No. 176, regulation 3(3) of S.R. 2002 No. 67 and regulation 7(4) of S.R. 2002 No. 80

(**11**) Regulation 6A was inserted by regulation 2(7) of S.R. 2001 No. 23

(**12**) Paragraph (1)(a) was substituted by regulation 18(a) of S.R. 2003 No. 191

(**13**) Paragraph (5) was substituted by regulation 6(5)(c) of S.R. 2000 No. 215

(**14**) Paragraph (9) was substituted by regulation 2(2) of S.R. 2000 No. 3 and amended by regulation 6(5)(e) of S.R. 2000 No. 215

(**15**) Paragraph (28) was added by regulation 18(g) of S.R. 2003 No. 191

(30) Where a decision is superseded in accordance with regulation 6(2)(a)(ii) and the relevant circumstances are that –

(a) a personal capability assessment has been carried out in the case of a person to whom section 167C(4) of the Contributions and Benefits Act applies; and

(b) the own occupation test remains applicable to him under section 167B(3) of that Act,

the decision under Article 11 shall take effect on the day immediately following the day on which the own occupation test is no longer applicable to that person.

(31) For the purposes of paragraph (30) –

"own occupation test" has the same meaning as in section 167B(2) of the Contributions and Benefits Act;

"personal capability assessment" has the same meaning as in regulation 24 of the Incapacity for Work Regulations.

(32) A decision to which regulation 6(2)(c)(ii) applies shall take effect from the date on which the appeal tribunal or the Commissioner's decision would have taken effect had it been decided in accordance with the determination of the Commissioner or the court in the appeal referred to in Article 26(1)(b).".

(7) In regulation 7B(**16**) (date from which a decision superseded under Article 19 of the Child Support Order takes effect) after paragraph (21) there shall be inserted the following paragraph –

"(21A) Where a superseding decision is made in a case to which regulation 6A(4A) applies the decision shall take effect from the first day of the maintenance period following the date on which the appeal tribunal or the Child Support Commissioner's decision would have taken effect had it been decided in accordance with the determination of the Child Support Commissioner or the court in the appeal referred to in Article 28ZB(1)(b) of the Child Support Order.".

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

4.—(1) The Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**17**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7(2) (decisions superseding earlier decisions) –

(a) in sub-paragraph (a)(i) after "a change of circumstances" there shall be inserted "since the decision had effect"; and

(b) for sub-paragraph (c) there shall be substituted the following sub-paragraph –

"(c) of an appeal tribunal or of a Commissioner –

(i) that was made in ignorance of, or was based upon a mistake as to, some material fact, or

(ii) that was made in accordance with paragraph 17(4)(b) of Schedule 7 to the Act, in a case where paragraph 17(5) of that Schedule applies;".

(3) In regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (8)(**18**) there shall be added the following paragraphs –

"(9) Where the decision is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to

(**16**) Regulation 7B was inserted by regulation 2(8) of S.R. 2001 No. 23 and amended by regulation 6(4) of S.R. 2002 No. 164 and regulation 7 of S.R. 2003 No. 84

(**17**) S.R. 2001 No. 213; relevant amending regulations are S.R. 2002 No. 80

(**18**) Paragraph (8) was added by regulation 8(5) of S.R. 2002 No. 80