Regulations made by the Department for Social Development and laid before the Assembly under section 10(3) of the Social Security Fraud Act (Northern Ireland) 2001 and Article 75(2)(b) of the Social Security (Northern Ireland) Order 1998 for approval by resolution of the Assembly before the expiration of 6 months from the date of their coming into operation:

STATUTORY RULES OF NORTHERN IRELAND

2002 No. 79

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002

Made - - - -	*6th March 2002*
Coming into operation	*1st April 2002*

The Department for Social Development, in exercise of the powers conferred by Article 74(3) to (6) of, and paragraph 9 of Schedule 2 to, the Social Security (Northern Ireland) Order 1998(**1**) and now vested in it(**2**), and sections 6(3) to (6), 7(3) and (4), 8(2) to (5) and 9(1) and (2) of the Social Security Fraud Act (Northern Ireland) 2001(**3**) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made by virtue of, or consequential upon, that Act, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 and shall come into operation on 1st April 2002.

(2) In these Regulations—

"the Act" means the Social Security Fraud Act (Northern Ireland) 2001;

"the Employment and Training Act" means the Employment and Training Act (Northern Ireland) 1950(**4**);

(**1**) S.I.1998/1506 (N.I. 10)
(**2**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**3**) 2001 c. 17 (N.I.)
(**4**) 1950 c. 29 (N.I.)

"the Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**);

"the Children Order" means the Children (Northern Ireland) Order 1995(**6**);

"the Jobseekers Order" means the Jobseekers (Northern Ireland) Order 1995(**7**);

"an authority" has the same meaning as in Article 2 of the Children Order;

"claimant" in a regulation means the person claiming the sanctionable benefit referred to in that regulation;

"disqualification period" means the period in respect of which the restrictions on payment of a relevant benefit apply in respect of an offender in accordance with section 6(6) of the Act and shall be interpreted in accordance with regulation 2;

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**8**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**9**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**10**); and

"offender" means the person who is subject to the restriction in the payment of his benefit in accordance with section 6 of the Act.

(3) Expressions used in these Regulations which are defined either for the purposes of the Jobseekers Order or the Jobseeker's Allowance Regulations shall have the same meaning as for the purposes of that Order or, as the case may be, those Regulations.

Disqualification period

2.—(1) Subject to paragraph (2), the first day of the disqualification period for the purposes of section 6(6) of the Act shall be—

(a) subject to sub-paragraph 6 where, on the determination day—

(i) the offender is in receipt of a sanctionable benefit;

(ii) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance, or

(iii) the offender's family member is in receipt of income support, jobseeker's allowance or housing benefit,

the day which is 28 days after the determination day;

(b) where sub-paragraph (*a*) does not apply, the day which is 28 days after the first day after the determination day on which the Department decides to award—

(i) a sanctionable benefit to the offender;

(ii) a joint-claim jobseeker's allowance to a joint-claim couple of which the offender is a member, or

(iii) income support or jobseeker's allowance ;

(**5**) 1992 c. 7
(**6**) S.I. 1995/755 (N.I. 2)
(**7**) S.I. 1995/2705 (N.I. 15)
(**8**) S.R. 1987 No. 461; relevant amending rules are S.R. 1998 No. 73 and S.R. 2001 No. 41
(**9**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 No. 318, S.R. 1990 No. 213, S.R. 1993 No. 149, S.R. 1996 No. 199, S.R. 1999 No. 371 (C. 28), S.R. 2000 Nos. 4 and 105 and S.R. 2001 No. 41
(**10**) S.R. 1996 No. 198; relevant amending rules are S.R. 1996 No. 503, S.R. 1999 No. 385, S.R. 2000 No. 350 and S.R. 2001 Nos. 41 and 120

(c) where the only sanctionable benefit which the offender or, as the case may be, the offender's family member, is in receipt of is housing benefit, the day which is 28 days after the first day after the determination day on which the Department is notified by the relevant authority that the offender or an offender's family member is in receipt of that benefit or, as the case may be, has been awarded that benefit and in this sub-paragraph "relevant authority" means the relevant authority administering the offender's or the offender's family member's housing benefit.

(2) For the purposes of paragraph (1), the first day of the disqualification period shall be no later than 3 years and 28 days after the date of the conviction of the offender for the benefit offence in the later proceedings referred to in section 6(1) of the Act and section 6(9) of the Act (date of conviction and references to conviction) shall apply for the purposes of this paragraph as it applies for the purposes of section 6 of the Act.

(3) In this regulation, "the determination day" means the day on which the Department determines that a restriction under—

(a) section 6 of the Act would be applicable to the offender were he in receipt of a sanctionable benefit;

(b) section 7 of the Act would be applicable to the offender were he a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance; or

(c) section 8 of the Act would be applicable to the offender's family member were that member in receipt of income support, jobseeker's allowance or housing benefit.

PART II

REDUCTIONS

Reduction of income support

3.—(1) Subject to paragraphs (2) to (4), any payment of income support which falls to be made to an offender in respect of any week in the disqualification period, or to an offender's family member in respect of any week in the relevant period, shall be reduced—

(a) where the claimant or a member of his family is pregnant or seriously ill, by a sum equivalent to 20 per cent.;

(b) where the applicable amount of the offender used to calculate that payment of income support has been reduced pursuant to regulation 22A of the Income Support Regulations(**11**) (appeal against a decision embodying an incapacity for work determination), whether or not the appeal referred to in that regulation is successful, by a sum equivalent to 20 per cent.;

(c) in any other case, by a sum equivalent to 40 per cent.,

of the applicable amount of the offender in respect of a single claimant for income support on the first day of the disqualification period or, as the case may be, on the first day of the relevant period, and specified in paragraph 1(1) of Schedule 2 to the Income Support Regulations(**12**).

(2) Payment shall not be reduced under paragraph (1) to below 10 pence per week.

(3) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(**11**) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199 and amended by Article 9(2) of S.R. 1999 No. 371 (C. 28), regulation 4(2)(*a*) of S.R. 2000 No. 4 and regulation 2 of S.R. 2000 No. 105

(**12**) The amounts in paragraph 1(1) of Schedule 2 were substututed by S.R. 2001 No. 41

(4) A payment of income support shall not be reduced as provided in paragraph (1) in respect of any week in the disqualification period in respect of which that payment of income support is subject to a restriction imposed pursuant to section 53 or 54 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (loss of benefit provisions)(**13**).

(5) Where the rate of income support payable to an offender or an offender's family member changes, the rules set out in paragraphs (1) to (4) for a reduction in the benefit payable shall be applied to the new rate and any adjustment to the reduction shall take effect from the beginning of the first benefit week to commence following the change.

(6) In this regulation "benefit week" shall have the same meaning as in regulation 2(1) of the Income Support Regulations(**14**).

Reduction of joint-claim jobseeker's allowance

4. In respect of any part of the disqualification period when section 7(2) of the Act does not apply, the reduced rate of joint-claim jobseeker's allowance payable to the member of that couple who is not the offender shall be—

(a) in any case in which the member of the couple who is not the offender satisfies the conditions set out in Article 4 of the Jobseekers Order (contribution-based conditions), a rate equal to the amount calculated in accordance with Article 6(1) of that Order;

(b) in any case where the couple are a couple in hardship for the purposes of regulation 11, a rate equal to the amount calculated in accordance with regulation 16;

(c) in any other case, a rate calculated in accordance with Article 6(3A) of the Jobseekers Order(**15**) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 to the Jobseeker's Allowance Regulations(**16**) as if the member of the couple who is not the offender were a single claimant.

PART III

HARDSHIP

Meaning of "person in hardship"

5.—(1) In this Part, a "person in hardship" means, for the purposes of regulation 6, a person, other than a person to whom paragraph (3) or (4) applies, where—

(a) she is a single woman who is pregnant and in respect of whom the Department is satisfied that, unless a jobseeker's allowance is paid, she will suffer hardship;

(b) he is a single person who is responsible for a young person and the Department is satisfied that, unless a jobseeker's allowance is paid, the young person will suffer hardship;

(c) he is a member of a married or unmarried couple where—

(i) the woman is pregnant, and

(ii) the Department is satisfied that, unless a jobseeker's allowance is paid, the woman will suffer hardship;

(d) he is a member of a polygamous marriage and—

(**13**) 2000 c. 4 (N.I.)
(**14**) The definition of "benefit week" was amended by regulation 2(*a*) of S.R. 1988 No. 318
(**15**) Paragraph (3A) was inserted by Article 56 of, and paragraph 6(3) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(**16**) The amounts in paragraph 1(1) of Schedule 1 were substituted by S.R. 2001 No. 41

(i) one member of the marriage is pregnant, and

(ii) the Department is satisfied that, unless a jobseeker's allowance is paid, that woman will suffer harship;

(e) he is a member of a married or unmarried couple or of a polygamous marriage where—

(i) one or both members of the couple, or one or more members of the polygamous marriage, are responsible for a child or young person, and

(ii) the Department is satisfied that, unless a jobseeker's allowance is paid, the child or young person will suffer hardship;

(f) he has an award of a jobseeker's allowance which includes or would, if a claim for a jobseeker's allowance from him were to succeed, have included in his applicable amount a disability premium and the Department is satisfied that, unless a jobseeker's allowance is paid, the person who would satisfy the conditions of entitlement to that premium would suffer hardship;

(g) he suffers, or his partner suffers, from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Department is satisfied that—

(i) the suffering has already lasted, or is likely to last, for not less than 26 weeks, and

(ii) unless a jobseeker's allowance is paid to that person, the probability is that the health of the person suffering would, within 2 weeks of the Department making its decision, decline further than that of a normally healthy adult and that person would suffer hardship;

(h) he does, or his partner does, or in the case of a person who is married to more than one person under a law which permits polygamy, at least one of those persons does, devote a considerable portion of each week to caring for another person who—

(i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act;

(ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier, or

(iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made,

and the Department is satisfied, after taking account of the factors set out in paragraph (5), in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a jobseeker's allowance is paid to the offender;

(i) he is a person or is the partner of a person to whom Article 18 of the Jobseekers Order (severe hardship) applies by virtue of a direction issued by the Department, except where the person to whom the direction applies does not satisfy the requirements of Article 3(2)(*a*) to (*c*) of that Order;

(j) he is a person—

(i) to whom Article 5(1)(*f*)(iii) of the Jobseekers Order (persons under the age of 18) applies, or is the partner of such a person, and

(ii) in respect of whom the Department is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship; or