STATUTORY RULES OF NORTHERN IRELAND

2001 No. 88

SOCIAL SECURITY

The Social Security (Credits and Incapacity Benefit) (Amendment) Regulations (Northern Ireland) 2001

Made - - - - 2nd March 2001

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by sections 22(5) and 171(1) to (3) of, and paragraph 2(8) of Schedule 3 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and now vested in it(**2**), 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 (Credits and Incapacity Benefit) (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation—

(a) for the purposes of regulations 1 and 2, on 26th March 2001;

(b) for the purposes of regulation 3, on 6th April 2001 immediately after the coming into operation of regulation 2(2) of the Social Security (Incapacity Benefit) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000(**3**).

Amendment of the Social Security (Credits) Regulations

2. In the Social Security (Credits) Regulations (Northern Ireland) 1975(**4**) after regulation 9C(**5**) (credits for maternity pay period) there shall be inserted the following regulation—

"**Credits for certain periods of imprisonment or detention in legal custody**

9D.—(1) Subject to paragraphs (2) and (4), for the purposes of entitlement to any benefit by virtue of a person's earnings or contributions, where—

(**1**) 1992 c. 7; section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); section 171(2) was amended by paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); paragraph 2(8) of Schedule 3 was added by Article 59(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

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

(**3**) S.R. 2000 No. 404

(**4**) S.R. 1975 No. 113; relevant amending regulations are S.R. 1988 Nos. 105 and 276 and S.R. 1995 No. 150

(**5**) Regulation 9C was inserted by regulation 3 of S.R. 1988 No. 105

(a) a person is imprisoned or otherwise detained in legal custody by reason of his conviction of an offence or convictions in respect of 2 or more offences;

(b) that conviction or, as the case may be, each of those convictions is subsequently quashed by the Crown Court or the Court of Appeal; and

(c) he is released from that imprisonment or detention, whether prior, or pursuant, to the quashing of that conviction or, as the case may be, each of those convictions,

that person shall, if he has made an application in writing to the Department for the purpose, be entitled to be credited with earnings or, in the case of any year(**6**) earlier than 1987-88, contributions in accordance with paragraph (3).

(2) Paragraph (1) shall not apply in respect of any period during which the person was also imprisoned or otherwise detained in legal custody for reasons unconnected with the conviction or convictions referred to in that paragraph.

(3) The earnings or, as the case may be, the contributions referred to in paragraph (1) are, in respect of any week in any part of which the person was—

(a) detained in legal custody—

(i) prior to the conviction or convictions referred to in that paragraph, but,

(ii) for the purposes of any proceedings in relation to any offence referred to in sub-paragraph (*a*) of that paragraph; or

(b) imprisoned or otherwise detained in legal custody by reason of that conviction or those convictions,

those necessary for the purpose of bringing his earnings factor, for the year in which such a week falls, to the level required to make that year a reckonable year.

(4) Subject to paragraph (5), paragraph (1) shall not apply to a woman in respect of any week referred to in paragraph (3) in any part of which she was a married woman in respect of whom an election made by her under regulations made under section 19(4) of the Contributions and Benefits Act(**7**) (reduced rate liability) had effect.

(5) Paragraph (4) shall not apply to any woman—

(a) who was imprisoned or otherwise detained in legal custody as referred to in paragraph (3) for a continuous period which included 2 complete years; and

(b) whose election ceased to have effect in accordance with regulation 99(1)(*c*) of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**8**) (which provides for an election to cease to have effect at the end of 2 consecutive years which began on or after 6th April 1978 during which the woman is not liable for primary Class 1 or Class 2 contributions).

(6) An application referred to in paragraph (1) may be transmitted by electronic means.".

Amendment of the Social Security (Incapacity Benefit) Regulations

3. In regulation 1B(2) of the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(**9**) (relaxation of the first contribution condition in certain cases) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

"(ba) he is, in respect of any week in any tax year preceding the relevant benefit year, a person who—

(**6**) Definition of "year" was inserted into S.R. 1975 No. 113 by regulation 2(2) of S.R. 1988 No. 276

(**7**) *See* Case C of Part VIII of S.R. 1979 No. 186; definition of "Contributions and Benefits Act" was inserted into S.R. 1975 No. 113 by regulation 6(2) of S.R. 1995 No. 150

(**8**) S.R. 1979 No. 186, to which there are amendments not relevant to these regulations

(**9**) S.R. 1994 No. 461; regulation 1B was inserted by regulation 2(2) of S.R. 2000 No. 404