STATUTORY RULES OF NORTHERN IRELAND

2000 No. 215

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT

The Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2000

Made - - - -	*16th June 2000*
Coming into operation	*19th June 2000*

The Department for Social Development, in exercise of the powers conferred by Articles 18(1) and (4) and 19(3) and (5) of, and paragraphs 2, 4 and 7 of Schedule 4A to, the Child Support (Northern Ireland) Order 1991(**1**), sections 108(4) and 109(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**), section 5(1)(*b*) and (*j*) of the Social Security Administration (Northern Ireland) Act 1992(**3**) and Articles 8(6), 10(1) and (4), 11(3) and (6), 13(2), 15(11), 16(1), 21, 28(1), 32 and 74(1), (3), (5) and (6) of, and paragraph 12 of Schedule 1, paragraph 9 of Schedule 2, paragraph 9 of Schedule 3 and paragraphs 1 to 4, 6 and 9 of Schedule 4 to, the Social Security (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 and shall come into operation on 19th June 2000.

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) S.I. 1991/2628 (N.I. 23); Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and Schedule 4A was inserted by Schedule 1 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and amended by paragraph 36 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(**2**) 1992 c. 7; section 109(2) was amended by paragraph 47 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(**3**) 1992 c. 8

(**4**) S.I. 1998/1506 (N.I. 10); Article 13(2) was substituted by paragraph 19(3) of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

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

(**6**) 1954 c. 33 (N.I.)

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

2. In regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**7**) (recrudescence) in paragraph (4) for the words from "review of the assessment" to the end of that paragraph there shall be substituted "a supersession of the assessment relating to the relevant period.".

Amendment of the Social Security (Claims and Payments) Regulations

3.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**8**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 6 (date of claim)—

(a) for paragraphs (16) to (26)(**9**) there shall be substituted the following paragraphs—

"(16) Where a person has claimed a relevant benefit and that claim ("the original claim") has been refused in the circumstances specified in paragraph (17), and a further claim is made in the additional circumstances specified in paragraph (18), that further claim shall be treated as made—

(a) on the date of the original claim; or

(b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that the ground for refusal was—

(a) in the case of severe disablement allowance, that the claimant's disablement was less than 80 per cent.;

(b) in the case of invalid care allowance, that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act;

(c) in any case, that the claimant had not been awarded a qualifying benefit.

(18) The additional circumstances referred to in paragraph (16) are that—

(a) the claimant had made a claim for the qualifying benefit not later than ten days after the date of the original claim, and the claim for the qualifying benefit had not been decided;

(b) after the original claim had been decided the claim for the qualifying benefit had been decided in the claimant's or the disabled person's favour; and

(c) the further claim was made within three months of the date on which the claim for the qualifying benefit was decided.

(19) Where a person has been awarded a relevant benefit and that award ("the original award") has been terminated in the circumstances specified in paragraph (20), and a further claim is made in the additional circumstances specified in paragraph (21), that further claim shall be treated as made—

(a) on the date of termination of the original award; or

(b) on the first date in respect of which the qualifying benefit again becomes payable,

(**7**) S.R. 1986 No. 179, to which there are amendments not relevant to these regulations
(**8**) S.R. 1987 No. 465; relevant amending rules are S.R. 1990 No. 398, S.R. 1992 No. 83, S.R. 1993 Nos. 149 and 217, S.R. 1996 No. 354, S.R. 1997 Nos. 156 and 417, S.R. 1998 No. 182 and S.R. 1999 No. 472 (C. 36)
(**9**) Paragraphs (16) to (26) were added by regulation 3(4)(*e*) of S.R. 1997 No. 156

whichever is the later.

(20) The circumstances referred to in paragraph (19) are that the award of the qualifying benefit has itself been terminated or reduced by means of a revision, supersession or appeal in such a way as to affect the award of the relevant benefit.

(21) The additional circumstances referred to in paragraph (19) are that—

(a) after the original award has been terminated the claim for the qualifying benefit is decided in the claimant's or the disabled person's favour; and

(b) the further claim is made within three months of the date on which the qualifying benefit is re-awarded following revision, supersession or appeal.

(22) In paragraphs (16) to (21)—

"relevant benefit" means any of the following, namely—

(a) benefit under Parts II to V of the Contributions and Benefits Act except incapacity benefit;

(b) income support;

(c) a jobseeker's allowance;

(d) a social fund payment mentioned in section 134(1)(*a*) or (2) of the Contributions and Benefits Act(**10**);

(e) child benefit;

"qualifying benefit" means—

(a) in relation to severe disablement allowance, the highest rate of the care component of disability living allowance;

(b) in relation to invalid care allowance, any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act;

(c) in relation to a social fund payment in respect of maternity or funeral expenses, any benefit referred to in regulation 4(1)(*a*) or 6(1)(*a*) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(**11**);

(d) any other relevant benefit which has the effect of making another relevant benefit payable or payable at an increased rate;

"the disabled person" means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(*a*) of the Contributions and Benefits Act.

(23) Where a person has ceased to be entitled to incapacity benefit, and a further claim for that benefit is made in the circumstances specified in paragraph (24), that further claim shall be treated as made—

(a) on the date on which entitlement to incapacity benefit ceased; or

(b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(24) The circumstances referred to in paragraph (23) are that—

(a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;

(**10**) Section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998

(**11**) S.R. 1987 No. 150; relevant amending regulations are S.R. 1988 No. 22, S.R. 1992 No. 6, S.R. 1996 No. 423, S.R. 1997 No. 155, S.R. 1999 No. 385 and S.R. 2000 No. 49

(b) at the date that entitlement ceased the claimant had made a claim for a qualifying benefit and that claim had not been decided;

(c) after entitlement had ceased, the claim for the qualifying benefit was decided in the claimant's favour; and

(d) the further claim for incapacity benefit was made within three months of the date on which the claim for the qualifying benefit was decided.

(25) In paragraphs (23) and (24) "qualifying benefit" means any of the payments referred to in regulation 10(2)(*a*) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**12**).

(26) In paragraphs (18)(*a*) and (*c*), (21)(*a*) and (24)(*b*) to (*d*), and in paragraph (18)(*b*) where it appears for the second time, "decided" includes the making of a decision following a revision, supersession or an appeal, whether by the Department, an appeal tribunal, a Commissioner or the court."; and

(b) in paragraph (29)(**13**) for "paragraphs (16) and (21)" there shall be substituted "paragraphs (16) and (19)".

(3) In regulation 26(1)(**14**) (income support) ", the date from which a superseding decision on the ground of a relevant change of circumstances has effect" shall be omitted.

(4) In regulation 26A(**15**) (jobseeker's allowance)—

(a) in paragraph (1) for "paragraphs (2) to (8)" there shall be substituted "the following provisions of this regulation"; and

(b) paragraphs (4) to (8) shall be omitted.

(5) In Schedule 7(**16**) (manner and time of payment, effective date of superseding decision and commencement of entitlement in income support cases)—

(a) in the heading, ", effective date of superseding decision" shall be omitted; and

(b) paragraph 7 shall be omitted.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

4.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**17**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of "official error"(**18**) after "materially contributed" there shall added ", but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court".

(3) In regulation 16(6)(*a*)(i)(**19**) (revision of decisions) for "the date from which the decision had effect" there shall be substituted "the date on which the decision was made".

(4) In regulation 19(3)(*a*)(i) (supersession of decisions) for "since the decision was made" there shall be substituted "since the date from which the decision took effect".

(5) In regulation 22 (date from which a superseding decision takes effect)—

(**12**) S.R. 1995 No. 41; regulation 10(2)(*a*) was substituted by regulation 4(3)(*b*)(i) of S.R. 1995 No. 149
(**13**) Paragraph (29) was added by regulation 2(2) of S.R. 1997 No. 417
(**14**) Regulation 26(1) was amended by regulation 2(3) of S.R. 1993 No. 217 and Article 9(7)(*a*) of S.R. 1999 No. 472 (C. 36)
(**15**) Regulation 26A was inserted by regulation 2(14) of S.R. 1996 No. 354 and amended by regulation 6(2) of S.R. 1998 No. 182 and Article 9(8) of S.R. 1999 No. 472 (C. 36)
(**16**) Relevant amending rules are S.R. 1990 No. 398, S.R. 1992 No. 83, S.R. 1993 No. 149 and S.R. 1999 No. 472 (C. 36)
(**17**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1999 No. 167
(**18**) The definition of "official error" was inserted by regulation 2(2)(*a*) of S.R. 1999 No. 167
(**19**) Regulations 16, 19 and 22 were substituted by regulation 2(12) of S.R. 1999 No. 167

(a) in paragraphs (2) and (4) at the beginning there shall be inserted "Subject to paragraph (19),"; and

(b) after paragraph (18) there shall be added the following paragraph—

"(19) Where a superseding decision is made in a case to which regulation 19(2)(*a*) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, that decision shall take effect from the first day of the maintenance period in which the change occurred.".

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

5.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**20**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of "official error"(**21**) after "materially contributed" there shall be added ", but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court".

(3) In regulation 8(**22**) (procedure in relation to the determination of an application) paragraph (8) shall be omitted.

(4) In regulation 32A(2)(*a*)(i)(**23**) (revision of decisions) for "the date from which the decision had effect" there shall be substituted "the date on which the decision was made".

(5) In regulation 32E (date from which a superseding decision takes effect)—

(a) in paragraph (2) for "paragraphs (3) and (5)" there shall be substituted "paragraphs (3), (5) and (12)";

(b) in paragraph (3) at the beginning there shall be inserted "Subject to paragraph (12),"; and

(c) after paragraph (11) there shall be added the following paragraph—

"(12) Where a superseding decision is made in a case to which regulation 32D(2)(*a*) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, that decision shall take effect from the first day of the maintenance period in which the change occurred.".

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

6.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**24**) shall be amended in accordance with paragraphs (2) to (22).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "disability determination"(**25**) there shall be inserted the following definition—

""family" has the same meaning as in section 133(1) of the Contributions and Benefits Act;";

(b) in the definition of "incapacity benefit decision" after "relevant benefit" there shall be inserted "or relevant credit";

(**20**) S.R. 1996 No. 541; relevant amending regulations are S.R. 1999 No. 167
(**21**) The definition of "official error" was inserted by regulation 3(2)(*b*) of S.R. 1999 No. 167
(**22**) Paragraph (8) was amended by regulation 3(5)(*b*) of S.R. 1999 No. 167
(**23**) Regulations 32A and 32E were inserted by regulation 3(11) of S.R. 1999 No. 167
(**24**) S.R. 1999 No. 162; relevant amending rules are S.R. 1999 Nos. 267, 271 (C. 22) and 472 (C. 36) and S.R. 2000 No. 3
(**25**) The definitions of "disability determination", "incapacity benefit decision" and "incapacity determination" were inserted by regulation 2(2) of S.R. 1999 No. 267