STATUTORY RULES OF NORTHERN IRELAND

2000 No. 74

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2000

Made - - - - 10th March 2000

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(*a*) and (*d*), 123(1)(*e*), 129(2) and (4), 131(1), 132(3) and (4)(*b*) and 133(2)(*d*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and Articles 6(5), 14(4)(*b*) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**) and now vested in it(**3**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**4**) in so far as regulations 4(4), 5 and 9(*c*) are concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of those regulations should not be referred to it(**5**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 and shall, subject to paragraph (2), come into operation—

(a) for the purpose of this regulation on 1st April 2000;

(b) for the purposes of regulations 4(4), 5, 7 and 8—

(i) in a case where rent is payable at intervals of a whole number of weeks, on 3rd April 2000, and

(ii) in any other case, on 1st April 2000;

(c) for the purposes of the remainder of these Regulations, on 3rd April 2000.

(**1**) 1992 c. 7; section 133(2)(*d*) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(**2**) S.I. 1995/2705 (N.I. 15)

(**3**) *See* Article 8(*b*) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481)

(**4**) *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)); consent function transferred from the Department of the Environment to the Department of Finance and Personnel; *see* Article 6(*b*) of, and Part II of Schedule 4 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999

(**5**) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992

(2) Regulation 8 shall come into operation immediately before the coming into operation of regulation 8 of the Housing Benefit (General) (Amendment No. 3) Regulations (Northern Ireland) 1999(**6**).

(3) In these Regulations—

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**7**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**8**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**9**).

(4) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Assembly.

Remunerative work

2. In the Income Support Regulations—

(a) in regulation 5(6)(**11**) (persons treated as engaged in remunerative work) for "paragraph (*a*) to (*j*) of regulation 6" there shall be substituted "regulation 6(1)";

(b) in regulation 6(**12**) (persons not treated as engaged in remunerative work)—

(i) sub-paragraphs (*a*) and (*e*) to (*g*) in paragraph (1)(**13**) shall be omitted;

(ii) in paragraph (1)(*i*)(**14**) for "paragraph 2(6) of Schedule 8 to the Social Security (Northern Ireland) Order 1989; or" there shall be substituted "section 167F(2) of the Contributions and Benefits Act(**15**); or";

(iii) after paragraph (3)(**16**) there shall be added the following paragraph—

"(4) The following persons shall not be treated as engaged in remunerative work —

(a) a person who is mentally or physically disabled and by reason of that disability—

(i) his earnings are reduced to 75 per cent. or less of what a person without that disability and working the same number of hours would reasonably be expected to earn in that employment or in comparable employment in the area, or

(ii) his number of hours of work are 75 per cent. or less of what a person without that disability would reasonably be expected to undertake in that employment or in comparable employment in the area;

(**6**) S.R. 1999 No. 416
(**7**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1990 Nos. 136 and 345, S.R. 1991 No. 337, S.R. 1992 No. 6, S.R. 1994 No. 274, S.R. 1996 No. 93, S.R. 1997 No. 376 and S.R. 1999 Nos. 298 and 416
(**8**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146 and 318, S.R. 1989 Nos. 365 and 395, S.R. 1990 No. 346, S.R. 1991 No. 338, S.R. 1992 Nos. 6, 147 and 403, S.R. 1993 Nos. 149, 165 and 373, S.R. 1996 No. 199, S.R. 1998 Nos. 81, 146 and 431 and S.R. 1999 No. 381
(**9**) S.R. 1996 No. 198; to which there are amendments not relevant to these Regulations
(**10**) 1954 c. 33 (N.I.)
(**11**) Regulation 5(6) was added by regulation 3 of S.R. 1988 No. 318 and amended by regulation 4(3)(*b*) of S.R. 1993 No. 373
(**12**) Regulation 6 was renumbered as regulation 6(1) by regulation 2(3) of S.R. 1999 No. 381
(**13**) Relevant amending Regulations are S.R. 1988 Nos. 146 and 318, S.R. 1991 No. 338, S.R. 1992 No. 147, S.R. 1993 No. 165 and S.R. 1996 No. 199
(**14**) Paragraph (1)(*i*) was amended by regulation 4(3)(*b*) of S.R. 1992 No. 403
(**15**) Section 167F was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
(**16**) Paragraphs (2) and (3) were added by regulation 2(3) of S.R. 1999 No. 381

(b) subject to regulation 5(4) and (5) (persons treated as engaged in remunerative work), a person to whom section 125 of the Contributions and Benefits Act (trade disputes) applies or in respect of whom section 123(1) of that Act (conditions of entitlement to income support) has effect as modified by section 126(b) of that Act (effect of return to work);

(c) a person to whom paragraph 4 of Schedule 1B (prescribed categories of person) applies;

(d) a person who is in employment and who lives in, or is temporarily absent from, a residential care home, a nursing home or residential accommodation, and either—

(i) his, or his partner's applicable amount falls to be calculated in accordance with Part I of Schedule 4 (applicable amounts of persons in residential care and nursing homes) or, as the case may be, paragraph 9, 10 to 10C, 13, 14, or 16 of Schedule 7 (applicable amounts in special cases), or

(ii) he or his partner satisfies the conditions specified in paragraph 2A(2) of Part I of Schedule 2 (conditions for entitlement to a residential allowance).";

(c) in the definition of "part-time employment" in both regulation 29(4D)(*a*) (calculation of earnings derived from employed earner's employment) and regulation 35(3)(*c*)(**17**) (earnings of employed earners) after "6(1)" there shall be inserted "and (4)";

(d) in Schedule 1B(**18**) (prescribed categories of person)—

(i) in paragraph 8 for "regulation 6(1)(*a*)" there shall be substituted "regulation 6(4)(*a*)";

(ii) in paragraph 9 for "regulation 6(1)(*g*)" there shall be substituted "regulation 6(4)(*d*)".

Date on which income is treated as paid

3.—(1) In regulation 31 of the Income Support Regulations (date on which income is treated as paid)—

(a) in paragraph (1), after "paragraph (2)" there shall be inserted "or (3)";

(b) at the end there shall be added the following paragraph—

"(3) Working families' tax credit under section 127 of the Contributions and Benefits Act and disabled person's tax credit under section 128 of that Act(**19**) shall be treated as paid on the first day of the benefit week on which the Tuesday following the day on which the award of that tax credit commenced falls.".

(2) In regulation 96 of the Jobseeker's Allowance Regulations (date on which income is treated as paid)—

(a) in paragraph (1), after "paragraph (2)" there shall be inserted "or (3)";

(b) at the end there shall be added the following paragraph—

"(3) Working families' tax credit under section 127 of the Benefits Act and disabled person's tax credit under section 128 of that Act shall be treated as paid on the first day

(**17**) Regulation 29(4D) and 35(3) were inserted by S.R. 1989 No. 365 and amended by S.R. 1999 No. 381

(**18**) Schedule 1B was inserted by regulation 22 of, and Schedule 1 to, S.R. 1996 No. 199 and paragraphs 8 and 9 were amended by S.R. 1999 No. 381

(**19**) References to family credit and disability working allowance in sections 127 and 128 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 were substituted respectively with references to working families' tax credit and disabled person's tax credit by section 1(2) of, and paragraph 2(*g*) and (*h*) of Schedule 1 to, the Tax Credits Act 1999 (c. 10)

of the benefit week on which the Tuesday following the day on which the award of that tax credit commenced falls.".

Invalid care allowance

4.—(1) In paragraph 4(*b*) of Schedule 1B to the Income Support Regulations (prescribed categories of persons: persons caring for another person) for "who is in receipt of" there shall be substituted "who is both entitled to, and in receipt of,".

(2) In Schedule 2 to the Income Support Regulations (applicable amounts)—

(a) in paragraph 13 (severe disability premium)—

(i) for sub-paragraph (2)(*a*)(iii)(**20**) there shall be substituted the following sub-head—

"(iii) no person is entitled to, and in receipt of, an invalid care allowance under section 70 of the Contributions and Benefits Act in respect of caring for him;";

(ii) in sub-paragraph 2(*b*)—

(aa) at the beginning for "where he" there shall be substituted "in the case of a claimant who";

(bb) for the words from "an invalid care allowance" to "to anyone" there shall be substituted "a person is entitled to, and in receipt of, an invalid care allowance in respect of caring for only one of the couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage or, as the case may be, no person is entitled to, and in receipt of, such an allowance";

(iii) in sub-paragraph (3A)(**21**)—

(aa) "as being in receipt of" shall be omitted;

(bb) at the beginning of head (*a*)(**22**) there shall be inserted "as being in receipt of";

(cc) for head (*b*) there shall be substituted the following head—

"(b) as being entitled to and in receipt of an invalid care allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.";

(b) in paragraph 14ZA(**23**) (carer premium)—

(i) in sub-paragraph (1)(**24**) for "in receipt of an invalid care allowance under section 37 of the principal Act" there shall be substituted "entitled to an invalid care allowance under section 70 of the Contributions and Benefits Act";

(ii) in sub-paragraph (2)(**25**) for "in receipt of" in the last place where those words occur there shall be substituted "entitled to";

(iii) for sub-paragraphs (3) and (4)(**26**) there shall be substituted the following sub-paragraphs—

(**20**) Paragraph 13(2)(*a*)(iii) was amended by regulation 6(*f*)(i) of S.R. 1989 No. 395
(**21**) Paragraph 13(3A) was inserted by regulation 30(*d*) of S.R. 1988 No. 146
(**22**) Head (*a*) was amended by regulation 10(4)(*c*) of S.R. 1992 No. 6
(**23**) Paragraph 14ZA was inserted by regulation 6(*d*) of S.R. 1990 No. 346
(**24**) Sub-paragraph (1) was amended by regulation 13(*d*)(i) of S.R. 1991 No. 338
(**25**) Sub-paragraph (2) was amended by regulation 10(4)(*e*) of S.R. 1992 No. 6
(**26**) Sub-paragraphs (3) and (4) were added by regulation 13(*d*)(ii) of S.R. 1991 No. 338