STATUTORY RULES OF NORTHERN IRELAND

1998 No. 182

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 1998

Made - - - -	*13th May 1998*
Coming into operation	*1st June 1998*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Articles 14(1), (2) and (4)(*b*) and (*d*), 21(10)(*c*) and 36(1) and (2) of, and paragraphs 4 and 10 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**1**), sections 122(1), 131(1), 132(3) and (4)(*b*), and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) and sections 5(1)(*j*), 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**3**), and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(**4**) in so far as regulation 5(1), (2)(*a*), (3), (4)(*b*), (5), (6)(*a*), (7), (8)(*b*), (9), (10)(*b*), (11) and (12)(*b*) is concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of that Regulation 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 No. 4) Regulations (Northern Ireland) 1998 and shall come into operation on 1st June 1998.

(2) In these Regulations—

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**6**);

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

(**1**) S.I. 1995/2705 (N.I. 15)
(**2**) 1992 c. 7
(**3**) 1992 c. 8
(**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))
(**5**) *See* section 150(1)(*b*)of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**6**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1989 Nos. 139 and 395, S.R. 1990 Nos. 297 and 346, S.R. 1993 Nos. 120, 149 and 167, S.R. 1996 Nos. 288 and 405, S.R. 1997 No. 541 and S.R. 1998 No. 81
(**7**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1990 No. 345 and S.R. 1997 No. 541

"the Family Credit Regulations" means the Family Credit (General) Regulations (Northern Ireland) 1987(**8**);

"the Disability Working Allowance Regulations" means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**9**);

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

(3) The Interpretation Act (Northern Ireland) 1954(**11**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Revocation

2. The Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 1998(**12**) (which increase the number of waiting days for a jobseeker's allowance from 3 to 7) are hereby revoked.

Amendment of the Income Support Regulations

3.—(1) The Income Support Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) After regulation 23 (calculation of income and capital of members of claimant's family and of a polygamous marriage) there shall be inserted the following regulation—

"**Income of participants in the self-employment route of the Employment Option of the New Deal**

23A. Chapters II, III, IV, V, VII and VIIA(**13**) of this Part and regulations 62 to 66A(**14**), 68 and 69 shall not apply to any income which is to be calculated in accordance with Chapter IVA of this Part (participants in the self-employment route of the Employment Option of the New Deal).".

(3) After regulation 39 (deduction of tax and contributions for self-employed earners) there shall be inserted the following Chapter—

"CHAPTER IVA

Participants in the Self-Employment route of the Employment Option of the New Deal

Interpretation

39A. In this Chapter—

"self-employment route" means that part of the Employment Option of the New Deal which is specified in regulation 75(1)(*a*)(i)(*bb*) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**15**);

"special account" means, where a person was carrying on a commercial activity in respect of which assistance is received under the self-employment route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

(**8**) S.R. 1987 No. 463; relevant amending Regulations are S.R. 1990 No. 347 and S.R. 1997 No. 541
(**9**) S.R. 1992 No. 78; relevant amending Regulations are S.R. 1997 No. 541
(**10**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 288 and 356, S.R. 1997 No. 541 and S.R. 1998 No. 81
(**11**) 1954 c. 33 (N.I.)
(**12**) S.R. 1998 No. 10
(**13**) Chapter VIIA was inserted by regulation 4 of S.R. 1993 No. 167
(**14**) Regulation 66A was inserted by regulation 4(7) of S.R. 1990 No. 297
(**15**) Regulation 75 was substituted by regulation 8 of S.R. 1997 No. 541 and amended by regulation 4(2) of these Regulations

Treatment of gross receipts of participants in the self-employment route of the Employment Option of the New Deal

39B. The gross receipts of a commercial activity carried on by a person in respect of which assistance is received under the self-employment route, shall be taken into account in accordance with the following provisions of this Chapter.

Calculation of income of participants in the self-employment route of the Employment Option of the New Deal

39C.—(1) The income of a person who has received assistance under the self-employment route shall be calculated by taking into account the whole of the monies in the special account at the end of the last day upon which such assistance was received and deducting from those monies—

(a) an amount in respect of income tax calculated in accordance with regulation 39D (deduction in respect of tax for participants in the self-employment route of the Employment Option of the New Deal); and

(b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) shall be apportioned equally over a period which starts on, and includes, the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with, and including, the day upon which assistance was first received under the self-employment route and ending on the last day upon which such assistance was received.

(3) Income calculated pursuant to paragraph (1) shall be treated as paid—

(a) in the case where it is due to be paid before the first benefit week in respect of which the participant or his partner first claims income support following the last day upon which assistance was received under the self-employment route, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;

(b) in any other case, on the first day of the benefit week in which it is due to be paid.

(4) This paragraph refers, where applicable in each benefit week in respect of which income calculated pursuant to paragraph (1) is taken into account pursuant to paragraphs (2) and (3), to the sums which would have been disregarded under paragraphs 4 to 6B and 9 of Schedule 8(**16**) (sums to be disregarded in the calculation of earnings) had the income been earnings.

Deduction in respect of tax for participants in the self-employment route of the Employment Option of the New Deal

39D.—(1) The amount to be deducted in respect of income tax under regulation 39C(1)(*a*) (calculation of income of participants in the self-employment route of the Employment Option of the New Deal) in respect of the period determined under regulation 39C(2) shall be calculated as if—

(a) the chargeable income is the only income chargeable to tax;

(b) the personal reliefs which are applicable to the person receiving assistance under the self-employment route by virtue of sections 257(1), 257A(1) and 259 of the Income

(**16**) Paragraph 4 was substituted by regulation 9 of S.R. 1989 No. 139 and amended by regulation 12(*a*) of S.R. 1989 No. 395 and paragraph 6(14)(*a*), (*b*), (*c*) and (*d*) of Schedule 2 to S.R. 1993 No. 149. Paragraph 5 was amended by paragraph 10(*a*) of Schedule 1 to S.R. 1988 No. 318, paragraph 14(*a*) of Schedule 1 to S.R. 1989 No. 139, paragraph 6(14)(*e*) of Schedule 2 to S.R. 1993 No. 149 and regulation 5(6) of S.R. 1996 No. 288. Paragraph 6 was substituted by regulation 5(11)(*a*) of S.R. 1996 No. 405. Paragraphs 6A and 6B were inserted by regulation 4(6)(*a*) of S.R. 1993 No. 120

and Corporation Taxes Act 1988(**17**) (personal reliefs) are allowable against that income; and

(c) the rate at which the chargeable income less the personal relief is assessable to income tax is the lower rate of tax or, as the case may be, the lower rate and the basic rate of tax.

(2) For the purpose of paragraph (1), the lower rate of tax to be applied and the amount of the personal relief deductible shall, where the period determined under regulation 39C(2) is less than a year, be calculated on a pro rata basis.

(3) In this regulation, "chargeable income" means the monies in the special account at the end of the last day upon which assistance was received under the self-employment route.".

(4) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 62(**18**) there shall be added the following paragraph—

"**63.**—(1) Subject to sub-paragraph (2), in the case of a person who is receiving, or who has received, assistance under an employment programme specified in regulation 75(1)(*a*)(i)(*bb*) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (self-employment route of the Employment Option of the New Deal), any payment to the person—

(a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity:

(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter IVA of Part V".

(5) In Schedule 3 in paragraph 14(1)(*ee*)(**19**) (linking rule) for "the Jobseeker's Allowance (Northern Ireland) Regulations 1996" there shall be substituted "the Jobseeker's Allowance Regulations (Northern Ireland) 1996".

Amendment of the Jobseeker's Allowance Regulations

4.—(1) The Jobseeker's Allowance Regulations shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 75(1)(*a*)(**20**) of the Jobseeker's Allowance Regulations (interpretation) for head (i) there shall be substituted the following head—

"(i) the Employment Option of the New Deal, being a programme which lasts for any individual for up to 26 weeks and which includes for that individual—

(aa) employed earner's employment, training and support, or

(bb) assistance in pursuing self-employed earner's employment;".

(3) After regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage) there shall be inserted the following regulation—

(**17**) 1988 c. 1; sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c. 39); section 257 was amended by section 74(2) of, and Schedule 20 and Part V of Schedule 41 to, the Finance Act 1996 (c. 8) and by section 55(2) of the Finance Act 1997 (c. 16); section 259 was amended by sections 30 and 35 of the Finance Act 1988 and section 20 of the Finance (No. 2) Act 1992 (c. 48), section 77 and Schedule 8, paragraph 6 of the Finance Act 1994 (c. 9) and Schedule 20 and Part V of Schedule 41 to the Finance Act 1996 (c. 8)
(**18**) Paragraph 62 was added by regulation 9(1)(*c*)(ii) of S.R. 1998 No. 81
(**19**) Head (*ee*) was inserted by regulation 16(3)(*a*) of S.R. 1997 No. 541
(**20**) Regulation 75 was substituted by regulation 8 of S.R. 1997 No. 541

"**Income of participants in the self-employment route of the Employment Option of the New Deal**

88A. Chapters II, III, IV, V, VII and VIII of this Part and regulations 131 to 136, 138 and 139 shall not apply to any income which is to be calculated in accordance with Chapter IVA of this Part (participants in the self-employment route of the Employment Option of the New Deal).".

(4) After regulation 102 (deduction of tax and contributions for self-employed earners) there shall be inserted the following Chapter—

"CHAPTER IVA

Participants in the Self-Employment Route of the Employment Option of the New Deal

Interpretation

102A. In this Chapter—

"self-employment route" means that part of the Employment Option of the New Deal which is specified in regulation 75(1)(*a*)(i)(*bb*)(**21**);

"special account" means, where a person was carrying on a commercial activity in respect of which assistance was received under the self-employment route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

Treatment of gross receipts of participants in the self-employment route of the Employment Option of the New Deal

102B. The gross receipts of a commercial activity carried on by a person in respect of which assistance is received under the self-employment route, shall be taken into account in accordance with the following provisions of this Chapter.

Calculation of income of participants in the self-employment route of the Employment Option of the New Deal

102C.—(1) The income of a person who has received assistance under the self-employment route shall be calculated by taking into account the whole of the monies in the special account at the end of the last day upon which such assistance was received and deducting from those monies—

(a) an amount in respect of income tax calculated in accordance with regulation 102D (deduction in respect of tax for participants in the self-employment route of the Employment Option of the New Deal), and

(b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) shall be apportioned equally over a period which starts on, and includes, the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with, and including, the day upon which assistance was first received under the self-employment route and ending on the last day upon which such assistance was received.

(3) Income calculated pursuant to paragraph (1) shall be treated as paid—

(a) in the case where it is due to be paid before the first benefit week in respect of which the participant or his partner first claims a jobseeker's allowance following the last

(**21**) Head (i) is substituted by regulation 4(2) of these Regulations