STATUTORY RULES OF NORTHERN IRELAND

1997 No. 156

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997

Made - - - - 14th March 1997
Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35(3)(*b*), 65(5), 76(2) and 171(1) to (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(*a*) to (*c*), (*h*) and (*i*), 25(1), 45(7), 59(1), 60(1) and 165(1) and (3) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**) 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 (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997 and shall come into operation as follows—

(a) for the purposes of regulations 1 to 3(2), (3)(*c*), (4)(*a*), (*c*) and (*e*), (5), (6) and (8), 4(1) to (3), (5) to (11) and 5 on 7th April 1997;

(b) for the purpose of regulation 3(7)—

(i) except as provided by head (ii), on 7th April 1997, and

(ii) in so far as it relates to retirement pension or graduated retirement benefit on 4th August 1997;

(c) for the purpose of regulation 4(4)—

(i) except as provided by head (ii), on 7th April 1997, and

(ii) in so far as it relates to retirement pension on 4th August 1997; and

(d) for all other purposes on 6th October 1997.

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

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) 1954 c. 33 (N.I.)

Amendment of the Social Security (Maternity Allowance) Regulations

2. In regulation 3 of the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(**4**) (modification of the maternity allowance period)—

(a) in paragraph (1) for "paragraphs (2) to (6)" there shall be substituted "the following provisions of this regulation"; and

(b) paragraphs (3) to (6) shall be omitted.

Amendment of the Social Security (Claims and Payments) Regulations

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

(2) In regulation 2(1) (interpretation) after the definition of "the Act" there shall be inserted the following definitions—

""the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

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

(3) In regulation 4 (making a claim for benefit)—

(a) in paragraph (1) after "Every claim for benefit" there shall be inserted ", other than a claim for income support or jobseeker's allowance,";

(b) after paragraph (1) there shall be inserted the following paragraphs—

"(1A) In the case of a claim for income support or jobseeker's allowance, the claim shall—

(a) be made in writing on a form approved by the Department for the purpose of the benefit for which the claim is made; and

(b) unless any of the reasons specified in paragraph (1B) applies—

(i) be made in accordance with the instructions on the form, and

(ii) include such information and evidence as the form may require in connection with the claim.

(1B) The reasons referred to in paragraph (1A)(*b*) are that—

(a) the person making the claim is unable to complete the form in accordance with the instructions or to obtain the information or evidence required because he has a physical, learning, mental or communication difficulty, and it is not reasonably practicable for him to obtain assistance from another person to complete the form or obtain the information or evidence;

(b) the information or evidence required by the form does not exist;

(c) the information or evidence required can be obtained only at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for him to obtain such information or evidence by other means;

(d) the information or evidence required can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain such information or evidence from such third party; or

(**4**) S.R. 1987 No. 170; relevant amending regulations are S.R. 1994 No. 271
(**5**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 141, S.R. 1989 No. 398, S.R. 1990 No. 137, S.R. 1991 No. 488, S.R. 1992 Nos. 7, 83 and 453, S.R. 1993 No. 375, S.R. 1994 No. 456 and S.R. 1996 Nos. 57, 354, 432 and 449

(e) the Department is of the opinion that the person making the claim has provided sufficient information or evidence to show that he is not entitled to the benefit for which the claim is made, and that it would be inappropriate to require the form to be completed or further information or evidence to be supplied.

(1C) If a person making a claim is unable to complete the claim form or supply the information or evidence required because any of the reasons specified in paragraph (1B) (*a*) to (*d*) applies, he may so notify an appropriate office by whatever means.";

(c) for paragraph (5) there shall be substituted the following paragraph—

"(5) Where a person who wishes to make a claim for benefit and who has not been supplied with an approved form of claim notifies an appropriate office (by whatever means) of his intention to make a claim, he shall be supplied, without charge, with such form of claim by such person as the Department may appoint or authorise for that purpose.";

(d) in paragraph (7) after "If a claim" there shall be inserted ", other than a claim for income support or jobseeker's allowance,";

(e) after paragraph (7) there shall be inserted the following paragraph—

"(7A) In the case of a claim for income support or jobseeker's allowance, if a defective claim is received, the Department shall advise the person making the claim of the defect and of the relevant provisions of regulation 6(1A) or (4A) relating to the date of claim."; and

(f) for paragraph (8) there shall be substituted the following paragraphs—

"(8) A claim, other than a claim for income support or jobseeker's allowance, which is made on the form approved for the time being is, for the purposes of these Regulations, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(9) In the case of a claim for income support or jobseeker's allowance, a properly completed claim is a claim which meets the requirements of paragraph (1A) and a defective claim is a claim which does not meet those requirements.".

(4) In regulation 6 (date of claim)—

(a) in paragraph (1)—

(i) for "Subject to paragraphs (3) to (7)" there shall be substituted "Subject to the following provisions of this regulation", and

(ii) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) in the case of a claim for family credit, disability working allowance, jobseeker's allowance (if first notification is received before 6th October 1997) or income support (if first notification is received before 6th October 1997) which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5), whichever is the later of—

(i) the date on which that notification is received, and

(ii) the first date on which that claim could have been made in accordance with these Regulations;";

(b) after paragraph (1) there shall be inserted the following paragraph—

"(1A) In the case of a claim for income support—

(a) subject to the following sub-paragraphs, the date on which a claim is made shall be the date on which a properly completed claim form is received in an appropriate office, or the first day in respect of which the claim is made, whichever is the later;

(b) where a properly completed claim form is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date on which that notification is deemed to be made, or the first day in respect of which the claim is made, whichever is the later;

(c) a notification of intention to make a claim shall be deemed to be made on the date when an appropriate office receives—

(i) a notification in accordance with regulation 4(5), or

(ii) a defective claim.";

(c) in paragraph (3)(**6**) for ", jobseeker's allowance or a social fund payment for maternity or funeral expenses" there shall be substituted "or jobseeker's allowance";

(d) for paragraph (4A)(**7**) there shall be substituted the following paragraphs—

"(4A) Where a person notifies the Department (by whatever means) that he wishes to claim a jobseeker's allowance—

(a) if, under regulation 4(6)(*a*), he is required to attend—

(i) where he subsequently attends for the purpose of making a claim for that benefit at the time and place specified by the Department and complies with the requirements of paragraph (4AA), the claim shall be treated as made on whichever is the later of first notification of intention to make that claim and the first day in respect of which the claim is made;

(ii) where, without good cause, he fails to attend for the purpose of making a claim for that benefit at either the time or place so specified, or does not comply with the requirements of paragraph (4AA), the claim shall be treated as made on the first day on which he does attend at that place and does provide a properly completed claim;

(b) if, under regulation 4(6)(*a*), the Department directs that he is not required to attend—

(i) subject to head (ii), the date on which the claim is made shall be the date on which a properly completed claim form is received in an appropriate office, or the first day in respect of which the claim is made, whichever is the later;

(ii) where a properly completed claim form is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification.

(4AA) Unless the Department otherwise directs, a properly completed claim form shall be provided at or before the time when the person making the claim for a jobseeker's allowance is required to attend for the purpose of making a claim and the Department may direct that the time for providing a properly completed claim form may be extended to a date not later than the date one month after the date of first notification of intention to make that claim."; and

(**6**) Paragraph (3) was added by regulation 2(*c*) of S.R. 1988 No. 141 and amended by regulation 6(3) of S.R. 1991 No. 488, regulation 4(*a*) of S.R. 1992 No. 7 and regulation 2(5)(*a*) of S.R. 1996 No. 354

(**7**) Paragraph (4A) was inserted by regulation 2(5)(*c*) of S.R. 1996 No. 354

(e) after paragraph (11)(**8**) there shall be added the following paragraphs—

"(12) Subject to paragraph (14), where a person has claimed disability working allowance and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (13), 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.

(13) The circumstances referred to in paragraph (12) are that—

(a) the original claim was refused on the ground that the claimant did not qualify under section 128(2) of the Contributions and Benefits Act(**9**);

(b) at the date of the original claim the claimant had made a claim for a qualifying benefit, and that claim had not been determined;

(c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant's favour; and

(d) the further claim for disability working allowance was made within 3 months of the date on which the claim for the qualifying benefit was determined.

(14) Paragraph (12) shall not apply in a case where the further claim for disability working allowance is made within the period prescribed under section 28(1) of the Administration Act, and is accordingly treated as an application for a review under section 28(13) of that Act.

(15) In paragraphs (12) and (13) "qualifying benefit" means any of the benefits referred to in section 128(2) of the Contributions and Benefits Act.

(16) Where a person has claimed severe disablement allowance and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (17), 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 highest rate of the care component of disability living allowance was payable,

whichever is the later.

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

(a) the original claim was refused on the ground that the claimant's disablement was less than 80 per cent.;

(b) at the date of the original claim the claimant had made a claim for disability living allowance, and that claim had not been determined;

(c) after the original claim had been determined, the claimant was awarded the highest rate of the care component of disability living allowance; and

(d) the further claim for severe disablement allowance was made within 3 months of the date on which the claim for disability living allowance was determined.

(18) Where a person has ceased to be entitled to incapacity benefit, and a further claim for incapacity benefit is made in the circumstances specified in paragraph (19), that further claim shall be treated as made—

(**8**) Paragraph (11) was added by regulation 4(*e*) of S.R. 1992 No. 7

(**9**) Section 128(2) was amended by paragraph 32 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and paragraph 17 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))