STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 519

# SOCIAL SECURITY

## The Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996

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| *Made - - - -* | *4th November 1996* |
| *Coming into operation* | *16th December 1996* |

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 28 and 36 of the Jobseekers (Northern Ireland) Order 1995(**1**) 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 (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996 and shall come into operation on 16th December 1996.

(2) In these Regulations—

"the Order" means the Jobseekers (Northern Ireland) Order 1995;

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**2**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**3**);

"applicant" means the person claiming the bonus;

"benefit week"—

(a) where the benefit is income support, has the meaning it has in the Income Support Regulations by virtue of regulation 2(1) of those Regulations;

(b) where the benefit is a jobseeker's allowance, has the meaning it has in the Jobseeker's Allowance Regulations by virtue of regulation 1(2) of those Regulations;

"bonus" means a back to work bonus;

(**1**) S.I.1995/2705 (N.I. 15)
(**2**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146 and 318, S.R. 1989 Nos. 139 and 395, S.R. 1992 No. 298, S.R. 1993 Nos. 120 and 149, S.R. 1995 No. 86 and S.R. 1996 No. 405
(**3**) S.R. 1996 No. 198

"bonus period" means a period beginning with and including the first day of entitlement to a qualifying benefit in a period of entitlement to a qualifying benefit which falls after the waiting period and ends on the last day of that period of entitlement;

"claim" means a claim made in accordance with regulation 22;

"couple" means a married or an unmarried couple;

"earnings" means any earnings which are payable within the bonus period and which—

(a) where the qualifying benefit is income support, are net earnings or net profit within the meaning of regulation 2 of the Income Support Regulations (interpretation) or are treated as earnings in accordance with regulation 42(5) or (6) of those Regulations(**4**) (notional income), or

(b) where the qualifying benefit is a jobseeker's allowance, are net earnings or net profit within the meaning of regulation 1(2) of the Jobseeker's Allowance Regulations or are treated as earnings in accordance with regulation 105(12) or (13) of the Jobseeker's Allowance Regulations,

and for this purpose an amount is payable on the date it is treated as paid for the purpose of regulation 31 of the Income Support Regulations where the qualifying benefit is income support, and for the purpose of regulation 96 of the Jobseeker's Allowance Regulations where the qualifying benefit is a jobseeker's allowance;

"employment" includes any trade, business, profession, office or vocation;

"partner" means where the person—

(a) is a member of a married or unmarried couple, the other member of that couple;

(b) is married polygamously to 2 or more members of his household, any such member;

"pensionable age" has the meaning it has in section 121(1) of the Benefits Act;

"period of entitlement to a qualifying benefit" shall be construed in accordance with regulations 2 and 3;

"polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

"training" means training for which a training allowance is payable;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a government department or by or on behalf of the Department of Economic Development;

(b) to a person for his maintenance or in respect of a member of his family, and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education, other than under provision or arrangements under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(**5**) or in accordance with arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**6**), or is training as a teacher;

(**4**) Relevant amending regulations are S.R. 1988 No. 146 and S.R. 1995 No. 86

(**5**) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

"waiting period" means the period of 91 consecutive days to which regulation 6 refers;

"week" means a period of 7 days;

"work condition" has the meaning it has in regulation 7(2)(*b*).

(3) For the purposes of these Regulations the "qualifying benefits" are a jobseeker's allowance and income support.

**Period of entitlement to a qualifying benefit**

**2.**—(1) A period of entitlement to a qualifying benefit comprises only days on which a person is entitled to, or treated as entitled to, a qualifying benefit.

(2) Subject to paragraph (4), any 2 or more periods of entitlement to a qualifying benefit separated by an intervening period specified in paragraph (3) shall link together to form a single period of entitlement to a qualifying benefit.

(3) The intervening periods specified in this paragraph are—

(a) any connecting period for the purposes of regulation 4;

(b) any period of not more than 12 weeks falling between—

(i) 2 periods of entitlement to a qualifying benefit;

(ii) 2 connecting periods;

(iii) a connecting period and a period of entitlement to a qualifying benefit;

(c) any period—

(i) in respect of which a person is summoned for jury service and is required to attend court, and

(ii) which immediately follows a day of entitlement to a qualifying benefit and is immediately followed by a day of entitlement to a qualifying benefit.

(4) A period of entitlement to a qualifying benefit which would, but for this paragraph, have continued, shall end—

(a) where the applicant satisfies the work condition and claims a bonus, on the last day of entitlement to a qualifying benefit which precedes the day on which he first satisfies those requirements;

(b) where the applicant satisfies the condition in regulation 7(4) or (5) (requirements for a bonus) and claims a bonus, on the last day of entitlement to a qualifying benefit which precedes the day on which he first satisfies that condition;

(c) where a bonus is paid in anticipation of an applicant satisfying either of the conditions specified in regulation 7(4)(*b*) or the condition specified in regulation 7(5)(*c*), but the applicant then fails to satisfy the relevant condition, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;

(d) where a bonus is paid in anticipation of an applicant or his partner satisfying the work condition, but the work condition is then not satisfied, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;

(e) where the person dies, on the date of his death.

(**6**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

**Period of entitlement to a qualifying benefit: further provisions**

**3.**—(1) Any day falling within a period during which a jobseeker's allowance is not payable in accordance with Article 21 of the Order shall be treated as a day of entitlement to a qualifying benefit only if and for so long as the claimant complies with the requirements as to attendance and the provision of information and evidence contained in regulations made in accordance with Article 10(1) of the Order.

(2) Any day falling within a period during which a jobseeker's allowance is not payable by virtue of Article 6(1) of the Order solely because of deductions in respect of pension payments shall be treated as a day of entitlement to a qualifying benefit only if and for so long as the claimant complies with requirements as to attendance contained in regulations made in accordance with Article 10(1) of the Order for the purpose of obtaining any credit in accordance with section 22(5) of the Benefits Act.

(3) Except as provided in paragraphs (1) and (2), no day falling within a period in which a person has an entitlement to a qualifying benefit but—

(a) no benefit is payable, or

(b) the weekly amount of benefit which is payable is less than 10p or in the case of a person to whom Article 16 of the Order (trade disputes) applies, £5,

shall be treated as a day of entitlement to a qualifying benefit.

(4) Paragraph (5) applies in the case of a person ("the recipient") who has not been entitled to a qualifying benefit, but—

(a) was the partner of a person who has died and that person was entitled to a qualifying benefit other than a contribution-based jobseeker's allowance immediately before his death;

(b) has separated from a partner who at the date of separation had been entitled to a qualifying benefit other than a contribution-based jobseeker's allowance, or

(c) is one of a couple whose partner has been entitled to a qualifying benefit other than a contribution-based jobseeker's allowance but where entitlement for the qualifying benefit ceased to be that of the partner and became instead that of the recipient.

(5) Where this paragraph applies and paragraph (6) is satisfied in the case of a recipient to whom paragraph (4) applies, the period of entitlement to a qualifying benefit established by the recipient's partner shall be treated as if it had also been established by the recipient.

(6) In the case of a recipient to whom paragraph (4) refers, paragraph (5) applies only where the recipient is entitled to a qualifying benefit within 12 weeks of the date on which—

(a) the partner died;

(b) the couple separated;

(c) in the case of a polygamous marriage, where one or more members of the marriage separated, or

(d) where paragraph (4)(*c*) applies, the partner's entitlement to the qualifying benefit ceased.

**Connecting period**

**4.**—(1) Subject to paragraphs (2) to (4), a connecting period arises where—

(a) within 12 weeks of a person ceasing to be entitled to a qualifying benefit he attends training, except where the person enters into a contract of service with the provider of the training, and lasts throughout the period of training;

(b) within 12 weeks of a person ceasing to be entitled to a qualifying benefit a maternity allowance becomes payable, and lasts throughout the period maternity allowance is payable to the person;

(c) a person ceases to be entitled to a qualifying benefit and in respect of the whole or part of the period of 12 weeks immediately following the day he ceases to be entitled, he becomes entitled ("the new entitlement") to any one of the following benefits—

(i) incapacity benefit;

(ii) severe disablement allowance, or

(iii) invalid care allowance,

and the connecting period lasts until the new entitlement ends or until the expiration of a period of 2 years from and including the date in respect of which the new entitlement began, whichever is the earlier;

(d) a person ceases to be entitled to one of the benefits mentioned in sub-paragraph (*c*) and in respect of the whole or part of the period of 12 weeks immediately following the day he ceases to be so entitled, he becomes entitled to the same or another of those benefits, and the connecting period lasts until the end of the period of entitlement to that benefit or until the expiration of the period of 2 years from and including the day in respect of which the new entitlement mentioned in sub-paragraph (*c*) began, whichever is the earlier, or

(e) a person who is treated under paragraph (4) of regulation 3 as having established a period of entitlement to a qualifying benefit under paragraph (5) of that regulation satisfies sub-paragraphs (*a*), (*b*), (*c*) and (*d*) of this paragraph within 12 weeks of the date which applies in his case in accordance with regulation 3(6), and lasts throughout the period the person satisfies sub-paragraphs (*a*), (*b*), (*c*) and (*d*).

(2) Notwithstanding paragraph (1)(*d*) where 2 periods of incapacity for work within the meaning of section 30C(1) of the Benefits Act(**7**) are separated by a period of more than 8 weeks, the second of those periods is only a connecting period where, in the weeks between the 2 periods of incapacity for work, the person was entitled to a qualifying benefit which ceased with the onset of the second of those periods of incapacity for work.

(3) In any relevant period, only one connecting period which arises in accordance with paragraph (1)(*c*) or (*d*) shall apply in any particular case, and for this purpose, a "relevant period" is the period which falls between periods of entitlement to a qualifying benefit.

(4) For the purposes of paragraph (1)(*d*) any part of the period of up to 12 weeks mentioned in that sub-paragraph in which the person was not entitled to one of the benefits to which paragraph (1)(*c*) refers shall be disregarded in determining the period of 2 years.

**Periods of entitlement which do not qualify**

**5.**—(1) The periods specified in paragraph (4) shall be treated for the purposes of these Regulations as periods in which a person is not entitled to a qualifying benefit.

(2) Any earnings in any benefit week in a period specified in paragraph (4) shall not be taken into account in determining—

(a) whether a person has earnings from employment, or

(b) the amount of those earnings.

(3) Paragraph (2)—

(a) shall not apply where during a benefit week there are days of entitlement to a qualifying benefit, and

(**7**) Section 30C was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))