STATUTORY RULES OF NORTHERN IRELAND

1996 No. 430

SOCIAL SECURITY

The Social Security (Credits and Contributions) (Jobseeker's Allowance Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 1996

Made - - - - 16th September 1996

Coming into operation 7th October 1996

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 22(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Article 39 of the Jobseekers (Northern Ireland) Order 1995(**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 (Credits and Contributions) (Jobseeker's Allowance Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996.

(2) In these Regulations "the Credits Regulations" means the Social Security (Credits) Regulations (Northern Ireland) 1975(**3**).

(3) The Interpretation Act 1978(**4**) shall apply to these Regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of the Credits Regulations

2.—(1) The Credits Regulations shall be amended in accordance with paragraphs (2) to (8) of this regulation.

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

(**1**) 1992 c. 7; section 22(5) is amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I.1995/2705 (N.I. 15))
(**2**) S.I. 1995/2705 (N.I. 15)
(**3**) S.R. 1975 No. 113; relevant amending regulations are S.R. 1976 Nos. 99 and 321, S.R. 1977 No. 132, S.R. 1978 No. 77, S.R. 1982 No. 42, S.R. 1983 Nos. 31 and 76, S.R. 1987 Nos. 153 and 220, S.R. 1988 Nos. 105, 276 and 326, S.R. 1989 No. 368, S.R. 1991 No. 528, S.R. 1992 No. 135, S.R. 1994 Nos. 65 and 265 and S.R. 1995 Nos. 150 and 479
(**4**) 1978 c. 30

(a) the definitions of "charity", "city, borough or district council", "councillor", "Education and Library Board", "Health and Social Services Board" and "HSS trust"(**5**) shall be omitted;

(b) after the definition of "the Contributions and Benefits Act"(**6**) there shall be inserted the following definitions—

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

"benefit" includes a contribution-based jobseeker's allowance but not an income-based jobseeker's allowance;

"contribution-based jobseeker's allowance" has the same meaning as in Article 3(4) of the Jobseekers Order (the jobseeker's allowance);";

(c) after the definition of "disability working allowance"(**7**) there shall be inserted the following definitions—

""income-based jobseeker's allowance" has the same meaning as in Article 3(4) of the Jobseekers Order;

"jobseeker's allowance" means an allowance payable under Part II of the Jobseekers Order (the jobseeker's allowance);";

(d) for the definition of "reckonable year"(**8**) there shall be substituted the following definition —

""reckonable year" means a year for which the relevant earnings factor of the contributor concerned was sufficient to satisfy—

(a) in relation to short-term incapacity benefit, widowed mother's allowance, widow's pension or Category A or Category B retirement pension, paragraph (*b*) of the second contribution condition specified in relation to that benefit, allowance or pension in Schedule 3 to the Contributions and Benefits Act (contribution conditions for entitlement to benefit); or

(b) in relation to contribution-based jobseeker's allowance, the additional condition specified in Article 4(3) of the Jobseekers Order (the contribution-based conditions);";

(e) for the definition of "relevant benefit year"(**9**) there shall be substituted the following definition—

""relevant benefit year" has the same meaning as—

(a) in relation to short-term incapacity benefit, in paragraph 2(6)(*b*) of Schedule 3 to the Contributions and Benefits Act; or

(b) in relation to contribution-based jobseeker's allowance, in Article 4(4)(*b*) of the Jobseekers Order;";

(f) in the definition of "relevant earnings factor"(**10**)—

(i) in paragraph (*a*) for the words from the beginning to "section 13" there shall be substituted "if the benefit is a contribution-based jobseeker's allowance or if the contributions relevant to the benefit under section 21 of the Contributions and Benefits Act (contribution conditions)",

(**5**) Definitions of "charity", "city, borough or district council" and "Health and Social Services Board" were inserted by S.R. 1982 No. 42; definitions of "councillor" and "Education and Library Board" were inserted by S.R. 1987 No. 220; definition of "HSS trust" was added by S.R. 1994 No. 65
(**6**) Definition of "the Contributions and Benefits Act" was inserted by S.R. 1995 No. 150
(**7**) Definition of "disability working allowance" was inserted by S.R. 1991 No. 528
(**8**) Definition of "reckonable year" was amended by S.R. 1978 No. 77
(**9**) Definition of "relevant benefit year" was inserted by S.R. 1988 No. 276
(**10**) Definition of "relevant earnings factor" was substituted by S.R. 1987 No. 153

(ii) in paragraphs (*b*) and (*c*) for "that benefit under section 13" there shall be substituted "the benefit under the said section 21".

(3) For paragraph (1) of regulation 3(**11**) (general provisions relating to the crediting of contributions and earnings) there shall be substituted the following paragraph—

"(1) Any contributions or earnings credited in accordance with these Regulations shall be only for the purpose of enabling the person concerned to satisfy—

(a) in relation to short-term incapacity benefit, widowed mother's allowance, widow's pension or Category A or Category B retirement pension, the second contribution condition specified in relation to that benefit, allowance or pension in Schedule 3 to the Contributions and Benefits Act (contribution conditions for entitlement to benefit); or

(b) in relation to contribution-based jobseeker's allowance, the condition specified in Article 4(1)(*b*) of the Jobseekers Order (the contribution-based conditions),

and accordingly, where under any of the provisions of these Regulations a person would, but for this paragraph, be entitled to be credited with any contributions or earnings for a year, or in respect of any week in a year, he shall be so entitled for the purposes of any benefit only if and to no greater extent than that by which his relevant earnings factor for that year falls short of the level required to make that year a reckonable year.".

(4) In regulations 7A(2)(*a*)(**12**) (credits for invalid care allowance), 7B(3)(*a*)(**13**) (credits for disability working allowance) and 7C(4)(*a*)(**14**) (credits for family credit) for "regulation 9" there shall be substituted "regulation 8A or 8B".

(5) In regulation 8(1)(**15**) (credits on termination of full-time education, training or apprenticeship) for "unemployment benefit" there shall be substituted "a contribution-based jobseeker's allowance".

(6) After regulation 8 there shall be inserted the following regulations—

"**Credits for unemployment**

8A.—(1) Subject to regulation 9, for the purposes of entitlement to any benefit by virtue of a person's earnings or contributions, he shall be entitled to be credited with earnings equal to the lower earnings limit then in force, in respect of each week to which this regulation applies.

(2) Subject to paragraph (5), this regulation applies to a week which, in relation to the person concerned, is—

(a) a week for the whole of which he was paid a jobseeker's allowance; or

(b) a week for the whole of which he satisfied or was treated as having satisfied the conditions set out in sub-paragraphs (*a*), (*c*) and (*e*) to (*h*) of Article 3(2) of the Jobseekers Order (conditions for entitlement to a jobseeker's allowance) and in respect of which he has satisfied the further condition specified in paragraph (3); or

(c) a week which would have been a week described in sub-paragraph (*b*) of this paragraph but for the fact that he was incapable of work for part of it.

(3) The further condition referred to in paragraph (2)(*b*) is that the person concerned—

(a) furnished to the Department notice in writing of the grounds on which he claims to be entitled to be credited with earnings—

(**11**) Paragraph (1) was amended by S.R. 1987 No. 153
(**12**) Regulation 7A was inserted by S.R. 1976 No. 99 and paragraph (2)(*a*) was amended by S.R. 1987 No. 153
(**13**) Regulation 7B was inserted by S.R. 1991 No. 528
(**14**) Regulation 7C was inserted by S.R. 1995 No. 479
(**15**) Paragraph (1) was substituted by S.R. 1989 No. 368 and amended by S.R. 1995 No. 150

(i) on the first day of the period for which he claims to be so entitled in which the week in question fell, or

(ii) within such further time as may be reasonable in the circumstances of the case; and

(b) has provided any evidence required by the Department that the conditions referred to in paragraph (2)(*b*) are satisfied.

(4) This regulation also applies to a week for the whole of which the conditions set out in sub-paragraphs (*a*), (*c*) and (*e*) to (*h*) of Article 3(2) of the Jobseekers Order would have been satisfied but for it being a week in respect of which, in accordance with regulation 52(3) (persons treated as engaged in remunerative work) and Part VIII (income and capital) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**16**), there is taken into account any compensation payment referred to in regulation 98(1)(*b*) of those Regulations (earnings of employed earners).

(5) This regulation shall not apply to—

(a) a week in respect of which the person concerned was not entitled to a jobseeker's allowance (or would not have been if he had claimed it) because of Article 16 of the Jobseekers Order (trade disputes); or

(b) a week in respect of which, in relation to the person concerned, there was in force a direction under Article 18 of the Jobseekers Order (which relates to persons who have reached the age of 16 but not the age of 18 and who are in severe hardship); or

(c) a week in respect of which, because of Article 21 of the Jobseekers Order (circumstances in which a jobseeker's allowance is not payable), a jobseeker's allowance was not payable to the person concerned even though he satisfied the conditions for entitlement to that allowance; or

(d) a week in respect of which a jobseeker's allowance was payable to the person concerned only by virtue of regulation 141(**17**) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (circumstances in which an income-based jobseeker's allowance is payable to a person in hardship); or

(e) where the person concerned is a married woman, a week in respect of any part of which an election made by her under regulations made under section 19(4) of the Contributions and Benefits Act (reduced rate liability) had effect.

Credits for incapacity for work

8B.—(1) Subject to regulation 9, for the purposes of entitlement to any benefit by virtue of a person's earnings or contributions, he shall be entitled to be credited with earnings equal to the lower earnings limit then in force, in respect of each week to which this regulation applies.

(2) Subject to paragraphs (3) and (4), this regulation applies to—

(a) a week in which, in relation to the person concerned, each of the days—

(i) was a day of incapacity for work under section 30C of the Contributions and Benefits Act(**18**) (incapacity benefit: days and periods of incapacity for work), or

(ii) would have been such a day had the person concerned claimed short-term incapacity benefit or maternity allowance within the prescribed time, or

(**16**) S.R. 1996 No. 198; relevant amending regulations are S.R. 1996 No. 358
(**17**) Regulation 141 is amended by S.R. 1996 No. 358
(**18**) 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))

(iii) was a day of incapacity for work for the purposes of statutory sick pay under section 147 of the Contributions and Benefits Act (statutory sick pay: employer's liability) and fell within a period of entitlement under section 149 (period of incapacity for work: period of entitlement) of that Act; or

(b) a week for any part of which an unemployability supplement was payable by virtue of Schedule 7 to the Contributions and Benefits Act (industrial injuries benefits).

(3) Where the person concerned is a married woman, this regulation shall not apply to a week in respect of any part of which an election made by her under regulations made under section 19(4) of the Contributions and Benefits Act (reduced rate liability) had effect.

(4) A day shall not be a day to which paragraph (2)(*a*) applies unless the person concerned has—

(a) before the end of the benefit year immediately following the year in which that day fell; or

(b) within such further time as may be reasonable in the circumstances of the case,

furnished to the Department notice in writing of the grounds on which he claims to be entitled to be credited with earnings.".

(7) For regulation 9(**19**) (credits for unemployment or incapacity for work) there shall be substituted the following regulation—

"**Crediting of earnings for the purposes of entitlement to short-term incapacity benefit — further conditions**

9. Earnings which a person is entitled to be credited with in respect of any week by virtue of regulation 8A or 8B shall be credited for the purpose of enabling him to satisfy the second contribution condition for entitlement to short-term incapacity benefit only if—

(a) in respect of one of the last 2 complete years before the beginning of the relevant benefit year, that person has an earnings factor of not less than 25 times the lower earnings limit for that year which is derived from earnings upon which primary Class 1 contributions have been paid or treated as paid or from Class 2 contributions; or

(b) in respect of any day in, or as the case may be any week falling wholly or partly in, the relevant past year, there was payable to that person or, but for the operation of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**20**), there would have been payable to him any one of the following benefits—

(i) short-term incapacity benefit at the higher rate or long-term incapacity benefit(**21**),

(ii) invalid care allowance,

(iii) unemployability supplement by virtue of Schedule 7 to the Contributions and Benefits Act (industrial injuries benefits) or as defined in regulation 2(1)(**22**) of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 (interpretation); or

(c) that person has made a claim ("the earlier claim") for—

(**19**) Regulation 9 was amended by S.R. 1976 No. 321, S.R. 1977 No. 132, S.R. 1978 No. 77, S.R. 1982 No. 42, S.R. 1983 Nos. 31 and 76, S.R. 1987 Nos. 153 and 220, S.R. 1988 Nos. 105 and 326, S.R. 1989 No. 368, S.R. 1992 No. 135, S.R. 1994 Nos. 65 and 265 and S.R. 1995 No. 150

(**20**) S.R. 1979 No. 242; relevant amending regulations are S.R. 1980 No. 451

(**21**) *See* section 30A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**22**) Definition of "Service Pensions Instrument" was substituted by S.R. 1980 No. 451