STATUTORY RULES OF NORTHERN IRELAND

1996 No. 355

SOCIAL SECURITY

The Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1996

Made - - - -	*1st August 1996*
Coming into operation	*7th October 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by sections 25(1), 57(1), (2) and (5) and 59(1) and (2) of, and Schedule 3 to, the Social Security Administration (Northern Ireland) Act 1992(**1**) and Article 32 of, and paragraph (4) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(**2**) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations consequential upon the Jobseekers (Northern Ireland) Order 1995, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996.

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

Amendment of the Social Security (Adjudication) Regulations

2.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1995(**4**) shall be amended in accordance with paragraphs (2) to (7).

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

(a) for the definition of "the Acts" there shall be substituted the following definition—

> ""the Acts" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**), the Social Security Administration (Northern Ireland) Act 1992 and the Jobseekers (Northern Ireland) Order 1995;";

(**1**) 1992 c. 8
(**2**) S.I.1995/2705 (N.I. 15)
(**3**) 1954 c. 33 (N.I.)
(**4**) S.R. 1995 No. 293; relevant amending regulations are S.R. 1995 No. 434 and S.R. 1996 No. 57
(**5**) 1992 c. 7

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

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

(c) after the definition of "inquiry" there shall be inserted the following definition—

""the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**6**);".

(3) For Section B of Part IV there shall be substituted the following Section—

"SECTION B—

INCOME SUPPORT AND JOBSEEKER'S ALLOWANCE

Notification of decisions in income support and jobseeker's allowance cases

55.—(1) Subject to paragraphs (2) to (4), where an adjudication officer has given a decision on any claim or question relating to income support or jobseeker's allowance, the claimant shall be notified in writing of the effect of that decision and he shall at the same time be notified of his right to request a statement of the reasons for the decision and of his right of appeal to an appeal tribunal.

(2) Where, under arrangements made by the Department, income support is payable together with another benefit under the Contributions and Benefits Act, notice of the aggregate amount so payable shall be notice for the purpose of paragraph (1).

(3) Written notice shall not be required of a determination awarding income support or jobseeker's allowance which is implemented by a cash payment where in all the circumstances it would be impracticable to do so.

(4) Written notice shall not be required of a determination terminating entitlement to income support or jobseeker's allowance if the reason for the termination is already known to the claimant or it is otherwise reasonable in the circumstances not to give such notice.

(5) In so far as may be practicable, and subject to paragraph (6), where a claimant is notified of a decision under paragraph (1) or (2) the Department shall also give or send him a written notice of assessment showing—

(a) the total amounts of the personal allowances, family premium, other premiums and housing costs determined under Part IV of the Income Support Regulations or, as the case may be, Part VII of the Jobseeker's Allowance Regulations as are appropriate in his case;

(b) the income taken into account; and

(c) any personal expenses addition, special transitional addition and transitional addition payable under the Income Support (Transitional) Regulations, any transitional supplement payable under regulation 87 of the Jobseeker's Allowance Regulations and any transitional allowance payable by virtue of regulations made under Article 39(2) of the Jobseekers Order.

(6) Paragraph (5) shall not apply to any determination—

(a) that income support or income-based jobseeker's allowance is not payable for any reason other than that the claimant's income exceeds the applicable amount;

(**6**) S.R. 1996 No. 198

(b) made on review under regulation 63(3) or 63A(4)(**7**) or, where the Department considers a written notice of assessment unnecessary, under any other provision of those regulations;

(c) in respect of a claimant to whom section 126 of the Contributions and Benefits Act applies.

(7) If, within the time limited by regulation 3 and Schedule 2 for the bringing of an appeal against an adjudication officer's decision, the claimant requests a statement of the reasons for that decision, he shall be given such a statement in writing and shall again be informed of his right of appeal.

Income support and social fund questions not immediately determinable

56.—(1) Where, on consideration of a claim or question relating to income support or to payment of maternity expenses from the social fund under Part VIII of the Contributions and Benefits Act, it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, such benefit depends on the determination of—

(a) the question as to what housing costs are to be included in the claimant's applicable amount by virtue of regulation 17(1)(*e*) or 18(1)(*f*) of, and Schedule 3 to, the Income Support Regulations(**8**) (applicable amounts) and the adjudication officer is satisfied that not all of those housing costs can be immediately determined, he shall proceed to determine the claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined;

(b) any of the questions mentioned in paragraph (3), and the adjudication officer is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 19(2) of the Administration Act, and notwithstanding the provisions of section 20 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) in relation to any of the questions mentioned or referred to in that paragraph, the tribunal shall not determine any such question until it has been determined by an adjudication officer.

(3) The questions referred to in paragraph (1)(*b*) are—

(a) whether in relation to any person the applicable amount falls to be reduced or disregarded to any extent by virtue of section 125(3) of the Contributions and Benefits Act;

(b) whether for the purposes of regulation 12 of the Income Support Regulations(**9**) a person is by virtue of that regulation to be treated as receiving relevant education; and

(c) whether in relation to any claimant the applicable amount includes severe disability premium by virtue of regulation 17(1)(*d*) or 18(1)(*e*) of, and paragraph 13 of Schedule 2 to, the Income Support Regulations(**10**).

(**7**) Regulation 63A is inserted by regulation 2(6) of these regulations

(**8**) S.R. 1987 No. 459; relevant amending provisions are S.R. 1988 Nos. 193, 274 and 318, S.R. 1989 Nos. 139 and 249, S.R. 1993 Nos. 149 and 373, S.R. 1995 Nos. 301, 350 and 434 and S.R. 1996 Nos. 73 and 120

(**9**) Relevant amending regulations are S.R. 1990 No. 131, S.R. 1992 No. 403 and S.R. 1993 No. 373

(**10**) Paragraph 13 of Schedule 2 was amended by regulation 30(*d*) of S.R. 1988 No. 146, regulation 6(*f*) of S.R. 1989 No. 395, regulation 10(4)(*c*) of S.R. 1992 No. 6, regulation 3(2) of S.R. 1993 No. 218, regulation 2(9)(*b*) of S.R. 1994 No. 327 and regulation 2(3) of S.R. 1994 No. 474

Jobseeker's allowance questions not immediately determinable

56A.—(1) Where, on consideration of a claim or question relating to jobseeker's allowance, it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, that allowance depends on the determination of any of the questions mentioned in paragraph (2), and the adjudication officer is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) The questions referred to in paragraph (1) are—

(a) whether in relation to any person the applicable amount falls to be reduced or disregarded to any extent by virtue of Article 17 of the Jobseekers Order; and

(b) whether for the purposes of regulation 54(2) to (4) of the Jobseeker's Allowance Regulations a person is by virtue of that regulation to be treated as receiving relevant education.

(3) Where—

(a) a person has made a claim for a jobseeker's allowance; and

(b) the adjudication officer is satisfied that the claimant satisfies the requirements for entitlement to a jobseeker's allowance specified in Articles 3(2) and 4 or 5 of the Jobseekers Order; but

(c) the adjudication officer is unable to determine for the time being a question arising under Article 21 of that Order,

then the adjudication officer shall, pending the determination of that question, determine the claim on the assumption that Article 21 does not restrict payment of benefit.

(4) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 19(2) of the Administration Act, and notwithstanding the provisions of section 20 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) or (3) in relation to any of the questions mentioned or referred to in those paragraphs, the tribunal shall not determine any such question until it has been determined by an adjudication officer.

(5) A determination made pursuant to paragraph (3) shall be reviewed by an adjudication officer or, on a reference by him, by an appeal tribunal, where it is necessary to give effect to a determination given on a question arising under Article 21 of the Jobseekers Order.

(6) A determination on review undertaken in consequence of a decision on a question arising under Article 21 of the Jobseekers Order shall have effect—

(a) except where sub-paragraph (*b*) applies, from the day immediately following the end of the benefit week in which the determination was made; or

(b) where in accordance with regulation 26A(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**11**) a jobseeker's allowance is paid otherwise than fortnightly in arrears, and notwithstanding the provisions of regulation 69 of the Jobseeker's Allowance Regulations, from the day immediately following the end of the last benefit week in respect of which a jobseeker's allowance was paid.

(7) Where, in consequence of the determination of any question arising under Article 21 of the Jobseekers Order, a jobseeker's allowance is not payable, the period in respect of which it is not payable shall begin on the date the revised determination takes effect.

(**11**) S.R. 1987 No. 465; regulation 26A is inserted by regulation 2(14) of S.R. 1996 No. 354