STATUTORY RULES OF NORTHERN IRELAND

1996 No. 199

SOCIAL SECURITY

The Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations (Northern Ireland) 1996

Made - - - - 15th May 1996
Coming into operation in accordance with regulation 1(1) and (2)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 39 of the Jobseekers (Northern Ireland) Order 1995(**1**) and sections 122(1)(*a*) and 123(1)(*e*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, Article 39(1) of that Order and section 123(1)(*e*) of that Act, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (General) (Jobseeker's Allowance Consequential Amendments) Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996.

(2) Regulations 2 to 32 of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 7th October 1996 which applies in his case and for this purpose and in regulation 27 the expressions "benefit week" and "claimant" have the same meanings as in regulation 2(1) of the principal Regulations (interpretation).

(3) In these Regulations "the principal Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**3**).

(4) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(**1**) S.I. 1995/2705 (N.I. 15)
(**2**) 1992 c. 7; section 123(1)(*e*) was added by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995
(**3**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146, 274 and 318, S.R. 1989 Nos. 139, 249 and 395, S.R. 1990 Nos. 131 and 213, S.R. 1991 No. 338, S.R. 1992 Nos. 6 and 147, S.R. 1993 Nos. 149 and 373 and S.R. 1995 Nos. 67, 71, 301, 367 and 434
(**4**) 1954 c. 33 (N.I.)

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation)—

(a) 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

(b) the definition of "registered person" shall be omitted.

Amendment of regulation 3A of the principal Regulations

3. In regulation 3A of the principal Regulations(**5**) (permitted period)—

(a) in paragraph (1)(*a*) "subject to paragraph (2)," shall be omitted, and

(b) paragraphs (2) and (3) shall be omitted.

Insertion of regulation 4ZA in the principal Regulations

4. In Part II of the principal Regulations (conditions of entitlement) there shall be inserted at the beginning the following regulation—

"**Prescribed categories of person**

4ZA.—(1) Subject to paragraphs (2) and (3), a person to whom any paragraph of Schedule 1B applies falls within a prescribed category of person for the purposes of section 123(1)(*e*) of the Contributions and Benefits Act (entitlement to income support).

(2) Paragraph (1) does not apply to a student during the period of study.

(3) A student during the period of study falls within a prescribed category of person for the purposes of section 123(1)(*e*) of the Contributions and Benefits Act only if—

(a) regulation 70(3)(*a*) applies to him;

(b) paragraph 1, 2, 10, 11, 12 or 18 of Schedule 1B applies to him; or

(c) any other paragraph of Schedule 1B applies to him and he has a partner who is also a student, and either he or his partner is treated as responsible for a child or young person, but this provision shall apply only for the period of the summer vacation appropriate to his course.".

Amendment of regulation 4 of the principal Regulations

5. In regulation 4(2)(*c*) of the principal Regulations (temporary absence from Northern Ireland)—

(a) for heads (i) and (ii) there shall be substituted the following heads—

"(i) the claimant falls within one or more of the prescribed categories of person listed in Schedule 1B other than paragraphs 7, 15, 20, 21, 24, 25, 26 or 27 of that Schedule,

(ii) the claimant falls within paragraph 7 of Schedule 1B (persons incapable of work) and his absence from Northern Ireland is for the sole purpose of receiving treatment from an appropriately qualified person for the incapacity by reason of which he satisfies the conditions of that paragraph, or", and

(**5**) Regulation 3A was inserted by S.R. 1989 No. 395

(b) in head (v)(**6**) for "paragraph 5 of Schedule 1" there shall be substituted "paragraph 7 of Schedule 1B".

Amendment of regulation 6 of the principal Regulations

6. In regulation 6 of the principal Regulations (persons not treated as engaged in remunerative work) for paragraph (*f*)(**7**) there shall be substituted the following paragraph—

"(f) he is a person to whom paragraph 4 of Schedule 1B applies;".

Amendment of regulation 13 of the principal Regulations

7. In regulation 13(2) of the principal Regulations (circumstances in which persons in relevant education are to be entitled to income support)—

(a) sub-paragraphs (*f*) and (*g*) shall be omitted, and

(b) for sub-paragraph (*h*) there shall be substituted the following sub-paragraph—

"(h) is a person to whom paragraph 18 of Schedule 1B (refugees) applies.".

Amendment of regulation 16 of the principal Regulations

8. In regulation 16 of the principal Regulations(**8**) (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (5)(*a*)(i), (*aa*)(i) and (*b*)(i) there shall be added at the beginning "subject to paragraph (5A),";

(b) after paragraph (5) there shall be inserted the following paragraph—

"(5A) Paragraph (5)(*a*)(i), (*aa*)(i) and (*b*)(i) shall not apply in a case where immediately before the date of claim for income support the claimant was entitled to an income-based jobseeker's allowance.", and

(c) in paragraph (8) at the end there shall be added "and the Children (Northern Ireland) Order 1995(**9**)".

Amendment of regulation 17 of the principal Regulations

9. In regulation 17(1) of the principal Regulations (applicable amounts) for "18 to 22" there shall be substituted "18 to 22A".

Amendment of regulation 18 of the principal Regulations

10. In regulation 18 of the principal Regulations(**10**) (polygamous marriages)—

(a) in paragraph (1)—

(i) for "19 to 22" there shall be substituted "19 to 22A", and

(ii) in sub-paragraph (*b*) for "paragraph (1)(3)(*c*)" there shall be substituted "paragraph (1)(3)(*d*)", and

(b) in paragraph (2) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

(**6**) Head (v) was substituted by regulation 2(2) of S.R. 1995 No. 67
(**7**) Paragraph (*f*) was amended by regulation 2(*b*) of S.R. 1992 No. 147
(**8**) Relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 139 and S.R. 1990 No. 131
(**9**) S.I. 1995/755 (N.I. 2)
(**10**) Relevant amending regulations are S.R. 1988 No. 274

"(b) that partner is a person who—

(i) had he not been a member of a polygamous marriage would have qualified for income support under regulation 4ZA(**11**),

(ii) satisfies the requirements of Article 5(1)(*f*)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), or

(iii) is the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship).".

Amendment of regulation 19 of the principal Regulations

11. In regulation 19(1) of the principal Regulations(**12**) (applicable amounts for persons in residential care and nursing homes) for "regulation 22" there shall be substituted "regulation 22A".

Amendment of regulation 21 of the principal Regulations

12. In regulation 21(1) of the principal Regulations(**13**) (special cases) for "regulation 22" there shall be substituted "regulation 22A".

Insertion of regulation 22A in the principal Regulations

13. After regulation 22 of the principal Regulations (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) there shall be inserted the following regulation—

"**Reduction in applicable amount where the claimant is appealing against a decision that he is not incapable of work**

22A.—(1) Subject to paragraph (3), where a claimant falls within paragraph 25 of Schedule 1B(**14**) (persons appealing against a decision that they are not incapable of work under the all work test), and none of the other paragraphs of that Schedule applies to him, his applicable amount shall be reduced by a sum equivalent to 20 per cent. of the following amount—

(a) in the case of a person to whom regulation 17 or 18 or paragraph 6, 9, 10, 11, 12, 14 or 15(*c*)(i) or (*d*)(i) of Schedule 7 applies—

(i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in Column (2) of paragraph 1(1)(*a*), (*b*) or (*c*), as the case may be, of Schedule 2 (applicable amounts),

(ii) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or a polygamous marriage where one member is aged not less than 18 but less than 25 and the other member, or in the case of a polygamous marriage each other member, is a person under 18 who—

(aa) does not qualify for income support under regulation 4ZA, or who would not so qualify if he were to make a claim;

(**11**) Regulation 4ZA is inserted by regulation 4 of these Regulations
(**12**) Relevant amending regulations are S.R. 1988 No. 146 and S.R. 1993 No. 149
(**13**) Relevant amending regulations are S.R. 1994 No. 77
(**14**) Schedule 1B is inserted by Schedule 1 to these Regulations

(bb) does not satisfy the requirements of Article 5(1)(*f*)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18), and

(cc) is not the subject of a direction under Article 18 of the Jobseekers Order (persons under 18: severe hardship),

the amount specified in Column (2) of paragraph 1(1)(*d*) of that Schedule,

(iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or a polygamous marriage to whom head (ii) applies) at least one of whom is aged not less than 18, the amount specified in Column (2) of paragraph 1(1)(*e*) of that Schedule;

(b) in the case of a person to whom regulation 19 (persons in residential care homes and nursing homes) applies, the amount allowed for personal expenses for him specified in paragraph 12 of Schedule 4.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2·5p but not of 5p, to the next lower multiple of 5p.

(3) Paragraph (1) shall not apply to a claimant who is appealing against a decision that he is not incapable of work under the all work test where that decision was made on the first application of the test to the claimant, and the claimant was, immediately prior to 13th April 1995, either—

(a) in receipt of invalidity pension under Part II of the Contributions and Benefits Act as then in operation, or severe disablement allowance; or

(b) incapable of work in accordance with paragraph 5 of Schedule 1 as in operation on 12th April 1995 and had been so for a continuous period of 28 weeks.".

Amendment of regulation 23 of the principal Regulations

14. In regulation 23(4) of the principal Regulations(**15**) (calculation of income and capital of members of claimant's family and of a polygamous marriage)—

(a) for "paragraph 1(3)(*b*), (*e*) or (*f*)" there shall be substituted "paragraph 1(3)(*b*), (*c*), (*f*) or (*g*)";

(b) in sub-paragraph (*a*) for "paragraph 1(3)(*b*)" there shall be substituted "paragraph 1(3)(*c*)", and

(c) in sub-paragraph (*b*) for "paragraph 1(3)(*e*) or (*f*)" there shall be substituted "paragraph 1(3)(*f*) or (*g*)".

Amendment of regulation 31 of the principal Regulations

15. In regulation 31(2) of the principal Regulations(**16**) (date on which income is treated as paid) for "unemployment benefit" there shall be substituted "jobseeker's allowance".

Amendment of regulation 32 of the principal Regulations

16. In regulation 32(4) of the principal Regulations(**17**) (calculation of weekly amount of income) —

(**15**) Paragraph (4) was inserted by regulation 6(1)(*c*) of S.R. 1988 No. 274
(**16**) Relevant amending regulations are S.R. 1988 Nos. 146 and 318 and S.R. 1995 No. 67
(**17**) Relevant amending regulations are S.R. 1988 Nos. 146 and 318 and S.R. 1995 No. 67