
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 428

The Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Modifications

Modification of the Social Security Benefit (Dependency) Regulations

10. The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977⁽¹⁾ shall have effect in relation to any benefit mentioned in Article 2(b)(i) and (ii) as if in regulation 1(2) (interpretation) for the definition of “the determining authority”⁽²⁾ there were substituted the following definition—

““the determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;”.

Modification of the Social Security (Claims and Payments) Regulations

11. The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 shall have effect in relation to any benefit mentioned in Article 2(b)(i) and (ii) as if—

- (a) in regulation 2(1) (interpretation)—
 - (i) the definition of “adjudicating authority” were omitted, and
 - (ii) in the definition of “claim for benefit” in paragraph (c) for “the review of an award or” in both places where it occurs there were substituted “a revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order”;
- (b) in regulation 13 (advance claims and awards)—
 - (i) in paragraph (1) for “the adjudicating authority” and “that authority” there were substituted “the Department”, and
 - (ii) in paragraph (2) for “An award under paragraph (1)(b) shall be reviewed by the adjudicating authority” there were substituted “A decision pursuant to paragraph (1) (b) to award benefit may be revised under Article 10 of the 1998 Order”;
- (c) in regulation 17(7) (duration of awards) “; and where those requirements are not satisfied the award shall be reviewed” were omitted;
- (d) in Part V (suspension and extinguishment)—
 - (i) in the heading “Suspension and”, and

(1) S.R. 1997 No. 74; relevant amending regulations are S.R. 1984 No. 174

(2) The definition of “the determining authority” was substituted by regulation 8 of S.R. 1984 No. 174

- (ii) regulations 36 to 36B(3) (suspension and withholding of benefit), were omitted;
- (e) in regulation 37(2A)(4) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period)—
 - (i) for “adjudicating authority” in both places where it occurs there were substituted “Department”,
 - (ii) in sub-paragraph (a) for “the Department has” there were substituted “it”, and
 - (iii) in sub-paragraph (c) “the Department has certified” and “that”, in each place where it occurs, were omitted and, in head (ii), for “it” there were substituted “the Department”;
- (f) in Schedule 8A(5) (deductions from benefits and direct payment to third parties)—
 - (i) for “adjudicating authority” in each place where it occurs there were substituted “Department”, and
 - (ii) in paragraph 6(4) for “reviewed” there were substituted “revised or superseded”; and
- (g) in Schedule 8B(6) (deductions of mortgage interest from benefit and payment to qualifying lenders), in paragraph 3(1) (specified part of relevant benefit)—
 - (i) for “adjudicating authority” there were substituted “Department”, and
 - (ii) for “the Department” there were substituted “it”.

Modification of the Social Security (Payments on account, Overpayments and Recovery) Regulations

12. The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(7) shall have effect in relation to any benefit mentioned in Article 2(b)(i) and (ii) as if—

- (a) in regulation 1(2) (interpretation)—
 - (i) after the definition of “the Order” there were inserted the following definition—
 - ““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”,
 - and
 - (ii) for the definition of “adjudicating authority”(8) there were substituted the following definition—
 - ““adjudicating authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order;”;
- (b) in regulation 2(1)(b) (making of interim payments) for “a reference, review,” there were substituted “an”;

(3) Regulations 36 to 36B were substituted for regulation 36 by regulation 7(9) of [S.R. 1992 No. 83](#), regulation 36 was amended by regulation 3(8) of [S.R. 1993 No. 375](#), regulation 2(17) of [S.R. 1996 No. 354](#) and regulation 2(4) of [S.R. 1996 No. 432](#), regulation 36A was substituted by regulation 2 of [S.R. 1998 No. 241](#), regulations 36AA and 36AB were inserted by regulation 2(6) of [S.R. 1994 No. 345](#) and regulation 36AA was amended by regulation 2(18) of [S.R. 1996 No. 354](#) and regulation 2(5) of [S.R. 1996 No. 432](#)

(4) Paragraph (2A) was inserted by regulation 6(3) of [S.R. 1989 No. 398](#) and amended by regulation 3(10) of [S.R. 1993 No. 375](#)

(5) Schedule 8A was inserted by [S.R. 1988 No. 67](#); relevant amending regulations are [S.R. 1991 No. 488](#), [S.R. 1993 Nos. 146 and 149](#) and [S.R. 1996 Nos. 354 and 432](#)

(6) Schedule 8B was inserted by [S.R. 1992 No. 271](#) and paragraph 3(1) was substituted by [S.R. 1995 No. 301](#) and amended by [S.R. 1996 No. 354](#)

(7) [S.R. 1988 No. 142](#); relevant amending regulations are [S.R. 1992 No. 6](#)

(8) The definition of “adjudicating authority” was amended by regulation 14(2)(a) of [S.R. 1992 No. 6](#)

- (c) in regulation 5(2) (offsetting prior payment against subsequent award)—
 - (i) for Case 1 there were substituted—

“Case 1: Payment pursuant to a decision which is revised, superseded or overturned on appeal

Where a person has been paid a sum by way of benefit pursuant to a decision which is subsequently revised under Article 10 of the 1998 Order, superseded under Article 11 of that Order or overturned on appeal.”, and

- (ii) in Case 2 “, on review or appeal,” were omitted;
- (d) in regulation 8(2) (duplication and prescribed payments) for “on review” there were substituted “by way of revision or supersession”;
- (e) in the heading to Part VI “REVISION OF DETERMINATION AND” were omitted; and
- (f) in regulation 12 (circumstances in which determination need not be revised)—
 - (i) for “or revision of determination” there were substituted “, revision or supersession”, and
 - (ii) for “for reviewing and revising the determination under which payment was made” there were substituted “for the decision pursuant to which the payment was made to be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”.

Modification of the Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations

13. The Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations (Northern Ireland) 1996(9) shall have effect in relation to jobseeker’s allowance as if—

- (a) in regulation 2(1) (interpretation) after the definition of “the 1996 Order” there were inserted the following definition—

““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”;

- (b) in the heading to Part IV “AND REVIEW” were omitted; and
- (c) in regulation 10 (provisions relating to determination of amount paid by way of or as on account of benefit) for paragraphs (2) and (3) there were substituted the following paragraphs—

“(2) Where an employee has given notice in writing to the Department under paragraph (1) that he does not accept that an amount specified in the recoupment notice is correct, the Department shall decide the question as to the amount of jobseeker’s allowance paid in respect of the period to which the prescribed element is attributable or, as appropriate, in respect of so much of the protected period as falls before the date on which the employer complies with regulation 6.

(2A) The Department may revise, either on an application made for the purpose or on its own initiative, a decision under paragraph (2).

(2B) The employee shall have a right of appeal to an appeal tribunal constituted under Chapter I of Part II of the 1998 Order against a decision of the Department whether as originally made under paragraph (2) or as revised under paragraph (2A).

(2C) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 shall apply for the purposes of paragraphs (2A) and (2B) as if a

decision of the Department under paragraph (2A) were made under Article 10 of the 1998 Order and any appeal under paragraph (2B) were made under Article 13 of that Order.

(3) Where the Department recovers too much money from an employer under these Regulations it shall pay to the employee an amount equal to the excess.”.

Modification of the Social Security (Back to Work Bonus) (No. 2) Regulations

14. The Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996⁽¹⁰⁾ shall have effect in relation to any sum to which a person may be entitled by virtue of his having been in receipt of a jobseeker’s allowance as if—

- (a) in—
 - (i) regulation 5(4)(c)(ii) and (6) (periods of entitlement which do not qualify),
 - (ii) regulation 8(5)(b) (amount payable), and
 - (iii) regulation 25(1) (award of bonus),
 for “adjudication officer” there were substituted “Department”;
- (b) in regulation 8(4)(c) and (d) for “review” there were substituted “revision or supersession”; and
- (c) in regulation 9(2) (Department to issue estimates) for “upon the adjudication officer when he makes his” there were substituted “when it makes its”.

Modification of the Social Security Benefit (Computation of Earnings) Regulations

15. The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996⁽¹¹⁾ shall have effect in relation to any benefit mentioned in Article 2(b)(i) and (ii) as if—

- (a) subject to the following paragraphs, for “the adjudicating authority” and “an adjudicating authority” in each place where they occur there were substituted “the Department”;
- (b) in regulation 2(1) (interpretation)—
 - (i) after the definition of “the Employment Rights Order” there were inserted the following definition—
 - ““the Order” means the Social Security (Northern Ireland) Order 1998;”, and
 - (ii) the definition of “adjudicating authority” were omitted;
- (c) in regulation 4 (notional earnings)—
 - (i) in paragraph (1) for “of the determination of the claim or of any subsequent review, the adjudicating authority shall treat the claimant” there were substituted “on which a decision falls to be made by the Department under Chapter II of Part II of the Order or regulations made thereunder, the claimant shall be treated”, and
 - (ii) in paragraph (2) for “the adjudicating authority shall treat the claimant” there were substituted “the claimant shall be treated”;
- (d) in regulation 6(8) (calculation of earnings of employed earners), in paragraph (b)(ii)(bb) of the definition of “part-time employment” for “of review” there were substituted “on which a revision or supersession of a decision falls to be made”;
- (e) in regulation 13(8) (calculation of net profit of self-employed earners) for “The adjudicating authority shall refuse to make a deduction” there were substituted “A

⁽¹⁰⁾ S.R. 1996 No. 519, to which there are amendments not relevant to this order

⁽¹¹⁾ S.R. 1996 No. 520, to which there are amendments not relevant to this order

deduction shall not be made” and for “it is not” there were substituted “the Department is not”;

- (f) in regulation 14(2) (deduction of tax and contributions for self-employed earners) for “of the determination of the claim or of any subsequent review” in both places where it occurs there were substituted “on which a decision is made by the Department under Chapter II of Part II of the Order or regulations made thereunder”; and
- (g) regulation 16 (transitional provision to suspend benefit and make interim payments) were omitted.