
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 417

SOCIAL SECURITY

**The Social Security (Claims and Payments and Adjudication)
(Amendment) Regulations (Northern Ireland) 1997**

Made - - - - *16th September 1997*

Coming into operation *13th October 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 5(1)(a) and (b), 25(1), 59(1) and 165(1) and (3) to (5) of the Social Security Administration (Northern Ireland) Act 1992⁽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 (Claims and Payments and Adjudication) (Amendment) Regulations (Northern Ireland) 1997 and shall come into operation on 13th October 1997.

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

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽³⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 6 (date of claim) after paragraph (28)⁽⁴⁾ there shall be added the following paragraph—

“(29) In the case of a claim for an increase of severe disablement allowance or of invalid care allowance in respect of a child or adult dependant, paragraphs (16) and (21) shall apply to the claim as if it were a claim for severe disablement allowance or, as the case may be, invalid care allowance.”.

(3) In regulation 19⁽⁵⁾ (time for claiming benefit)—

(1) 1992 c. 8

(2) 1954 c. 33 (N.I.)

(3) S.R. 1987 No. 465; relevant amending regulations are S.R. 1997 No. 156

(4) Paragraphs (12) to (28) were added by regulation 3(4)(e) of S.R. 1997 No. 156

(5) Regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156

- (a) at the end of sub-paragraph (f) “or” shall be omitted; and
- (b) after sub-paragraph (g) there shall be added “or” and the following sub-paragraph—
 - “(h) in the case of a claim for disability working allowance, the claimant had previously been entitled to income support, jobseeker’s allowance, incapacity benefit or severe disablement allowance (“the previous benefit”), and the claim for disability working allowance was made within one month of expiry of entitlement to the previous benefit.”.

Amendment of the Social Security (Adjudication) Regulations

3.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1995(6) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 59 (review of decisions involving payment or increase of benefit other than industrial injuries benefit (except reduced earnings allowance), income support, jobseeker’s allowance, family credit or disability working allowance) after paragraph (1B)(7) there shall be inserted the following paragraph—

“(1C) Subject to regulation 58, where, in the case of attendance allowance or disability living allowance, the decision is reviewed under section 28(1) of the Administration Act, or under that subsection as applied by section 29(2) or 33(8) of that Act, the decision given on review shall have effect from such date as may be specified in the decision, being a date not earlier than—

- (a) where the decision being reviewed is also a review decision or a refusal to review (“the first review”), one month before the date of application for the first review;
- (b) in any other case, the date of claim.”.

(3) In regulation 63 (review in income support cases)—

(a) in paragraph (1)(8)—

- (i) at the end of sub-paragraph (a) “or” shall be omitted, and
- (ii) after sub-paragraph (b) there shall be added “or” and the following sub-paragraph—
 - “(c) in a case to which paragraph (1B) applies, any period which falls more than eight weeks before the date on which the review was requested or, where no request is made, the date of the review.”;

(b) in paragraph (1A)(9) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) the reason for the revised determination is that the claimant or a member of his family has become entitled to another benefit, or to an increase in the rate of another benefit; and
- (b) that other benefit or increase is awarded in respect of a period before the one month period.”; and

(c) after paragraph (1A) there shall be inserted the following paragraph—

“(1B) This paragraph applies where—

- (a) on a review it is determined that there is to be included in the claimant’s applicable amount an amount in respect of a loan which qualifies under paragraph 15 or 16 of Schedule 3 to the Income Support Regulations; and

(6) S.R. 1995 No. 293; relevant amending regulations are S.R. 1996 No. 355 and S.R. 1997 No. 156

(7) Paragraphs (1A) and (1B) were inserted by regulation 4(4)(b) of S.R. 1997 No. 156

(8) Paragraph (1) was amended by regulation 4(7)(a) of S.R. 1997 No. 156

(9) Paragraph (1A) was inserted by regulation 4(7)(b) of S.R. 1997 No. 156

- (b) the determination could not have been made earlier because information necessary to make the determination, requested otherwise than in accordance with paragraph 9(3)(b) of Schedule 8B to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹⁰⁾, had not been supplied to the Department by the lender.”
- (4) In regulation 63A⁽¹¹⁾ (review in jobseeker’s allowance cases)—
 - (a) in paragraph (1)⁽¹²⁾—
 - (i) at the end of sub-paragraph (b) “or” shall be omitted, and
 - (ii) after sub-paragraph (c) there shall be added “or” and the following sub-paragraph—
 - “(d) in a case to which paragraph (1B) applies, any period which falls more than eight weeks before the date on which the review was requested or, where no request is made, the date of the review.”;
 - (b) in paragraph (1A)⁽¹³⁾ for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—
 - “(a) the reason for the revised determination is that the claimant or a member of his family has become entitled to another benefit, or to an increase in the rate of another benefit; and
 - (b) that other benefit or increase is awarded in respect of a period before the one month period.”; and
 - (c) after paragraph (1A) there shall be inserted the following paragraph—
 - “(1B) This paragraph applies where—
 - (a) on a review it is determined that there is to be included in the claimant’s applicable amount an amount in respect of a loan which qualifies under paragraph 14 or 15 of Schedule 2 to the Jobseeker’s Allowance Regulations; and
 - (b) the determination could not have been made earlier because information necessary to make the determination, requested otherwise than in accordance with paragraph 9(3)(b) of Schedule 8B to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, had not been supplied to the Department by the lender.”.

Transitional provision

4. In a case to which regulation 59(1C)(a) of the Social Security (Adjudication) Regulations (Northern Ireland) 1995 applies, where the application for the first review referred to in that provision was made on or before 6th April 1997, regulation 59 of those Regulations shall apply with the following modifications—

- (a) as if in paragraph (1C)(a) for “one month” there were substituted “subject to paragraph (1D), three months”;
- (b) as if after paragraph (1C) there were inserted the following paragraph—
 - “(1D) Subject to the following provisions of this regulation, in a case to which paragraph (1C)(a) applies where the claimant proves that—

⁽¹⁰⁾ Schedule 8B was inserted by regulation 5 of [S.R. 1992 No. 271](#) and paragraph 9 was amended by regulation 2(27)(f) of [S.R. 1996 No. 354](#)

⁽¹¹⁾ Regulation 63A was inserted by regulation 2(6) of [S.R. 1996 No. 355](#); relevant amending regulations are [S.R. 1997 No. 156](#)

⁽¹²⁾ Paragraph (1) was amended by regulation 4(8)(a) of [S.R. 1997 No. 156](#)

⁽¹³⁾ Paragraph (1A) was inserted by regulation 4(8)(b) of [S.R. 1997 No. 156](#)

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- (a) on a date earlier than three months before the date of the application for the first review, he was (apart from the condition of making a claim) entitled to benefit or to a higher rate of benefit; and
- (b) throughout the period between that earlier date and the date on which the application for the first review was made, there was good cause for delay in making the application,

the decision given on review shall have effect either on that earlier date or 12 months before the date on which the application for the first review was made, whichever is the later.”; and

- (c) as if in paragraph (5)(c) for “one month” there were substituted “three months”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

L.S.

16th September 1997.

John O'Neill
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 and the Social Security (Adjudication) Regulations (Northern Ireland) 1995 in the following respects—

to specify the circumstances in which a claim for an increase of severe disablement allowance or invalid care allowance for a dependant is treated as made on an earlier date (regulation 2(2));

to specify the circumstances in which the time for claiming disability working allowance may be extended (regulation 2(3));

to alter the period over which reviews are backdated in certain cases in respect of claims for attendance allowance and disability living allowance and income support and jobseeker's allowance (regulation 3).

Regulation 4 makes transitional provision for backdating reviews of attendance allowance and disability living allowance in certain cases.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.