
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 472

**The Social Security (1998 Order) (Commencement
No. 11 and Consequential and Transitional
Provisions) Order (Northern Ireland) 1999**

Consequential Amendments

Amendment of the Social Security Benefit (Dependency) Regulations

4.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977⁽¹⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of “the determining authority”⁽²⁾ there shall be 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;”.

(3) In regulation 3(4)(b) (allocation of contributions for spouse or children)—

- (a) for “varied on review” there shall be substituted “superseded”;
- (b) for “such review” there shall be substituted “such supersession”; and
- (c) for “the review” there shall be substituted “the supersession”.

Amendment of the Social Security (General Benefit) Regulations

5.—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984⁽³⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) for the definition of “determining authority”⁽⁴⁾ there shall be 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;”.

(3) In regulation 11 (further definition of the principles of assessment of disablement and prescribed degrees of disablement)—

(1) [S.R. 1977 No. 74](#); relevant amending regulations are [S.R. 1983 No. 193](#) and [S.R. 1984 No. 174](#)
(2) The definition of “the determining authority” was substituted by regulation 8 of [S.R. 1984 No. 174](#)
(3) [S.R. 1984 No. 92](#); relevant amending regulations are [S.R. 1984 No. 174](#) and [S.R. 1992 No. 6](#)
(4) The definition of “determining authority” was substituted by regulation 26(a) of [S.R. 1984 No. 174](#) and amended by regulation 7(2) of [S.R. 1992 No. 6](#)

- (a) in paragraphs (7) and (8)(5) for “the medical appeal tribunal, the adjudicating medical practitioner or 2 or more adjudicating medical practitioners (as the case may be)” there shall be substituted “the Department or, as the case may be, an appeal tribunal”; and
- (b) paragraph (9) shall be omitted.

Amendment of the Social Fund (Maternity and Funeral Expenses) (General) Regulations

6. In regulation 3(4) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(6) (provision against double payment)—

- (a) in sub-paragraph (a) for “reviewed” there shall be substituted “revised”; and
- (b) in sub-paragraph (b) “on that review” shall be omitted.

Amendment of the Income Support (General) Regulations

7.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(7) shall be amended in accordance with paragraphs (2) to (12).

(2) Subject to paragraphs (7) and (10), for “an adjudication officer” and “the adjudication officer” in each place where they occur there shall be substituted “the Department”.

(3) In regulation 2(1) (interpretation) after the definition of “the 1972 Order” there shall be inserted the following definition—

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

(4) In regulation 5(2)(b)(ii) (persons treated as engaged in remunerative work) for “of review” there shall be substituted “on which a superseding decision is made under Article 11 of the 1998 Order”.

(5) In regulation 38(7) (calculation of net profit of self-employed earners) for “he” there shall be substituted “it”.

(6) In regulation 41(8) (capital treated as income) for paragraph (1) there shall be substituted the following paragraph—

“(1) Capital which is payable by instalments which are outstanding on—

(a) the first day in respect of which income support is payable or the date of the determination of the claim, whichever is earlier; or

(b) in the case of a supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of the claimant’s capital otherwise calculated in accordance with Chapter VI of this Part exceeds £8,000 or, in a case where regulation 45(b)(9) applies, £16,000.”.

(7) In regulation 42 (notional income)—

(a) in paragraph (5) for “subsequent review the adjudication officer” there shall be substituted “revision or supersession the Department”; and

(b) in paragraph (6) for “satisfies him” there shall be substituted “satisfies the Department”.

(8) In regulation 44 (modifications in respect of children and young persons) for paragraph (1) there shall be substituted the following paragraph—

(5) Paragraphs (7) and (8) were amended and paragraph (9) was added by regulation 26(c) of S.R. 1984 No. 174

(6) S.R. 1987 No. 150; relevant amending regulations are S.R. 1997 No. 472

(7) S.R. 1987 No. 459; relevant amending regulations are S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 137, S.R. 1995 Nos. 301 and 367, S.R. 1996 No. 93 and S.R. 1997 No. 22

(8) Regulation 41(1) was amended by regulation 5(2) of S.R. 1990 No. 137 and regulation 3(1) of S.R. 1997 No. 22

(9) Regulation 45 was substituted by regulation 11(1)(a) of S.R. 1996 No. 93

“(1) Any capital of a child or young person payable by instalments which are outstanding on—

- (a) the first day in respect of which income support is payable or at the date of the determination of the claim, whichever is the earlier; or
- (b) in the case of a supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of that child’s or young person’s other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant would exceed £3,000.”.

(9) In regulation 49(b)(i) (calculation of capital in the United Kingdom) for “review, the date of any subsequent review” there shall be substituted “supersession, the date of that supersession”.

(10) In regulation 69 (disregard of changes occurring during summer vacation) for “an adjudication officer shall disregard” there shall be substituted “there shall be disregarded”.

(11) In Schedule 3(10) (housing costs)—

(a) in paragraph 13 (excessive housing costs)—

(i) for sub-paragraph (6) there shall be substituted the following sub-paragraph—

“(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the 26 weeks immediately following the date on which—

- (a) the claimant became entitled to income support where his housing costs fell within one of the cases in sub-paragraph (1) on that date; or
- (b) a decision took effect which was made under Article 11 of the 1998 Order on the ground that the claimant’s housing costs fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation.”; and

(ii) in sub-paragraph (8)(b) “on appeal or review” shall be omitted; and

(b) in paragraph 14 (linking rule)—

(i) in sub-paragraph (1)(a)(i) for “held, on appeal or review,” there shall be substituted “determined”,

(ii) in sub-paragraph (1)(b) for “held on appeal or review” there shall be substituted “determined”, and

(iii) in sub-paragraph (2)(a) “on review” shall be omitted.

(12) In Schedule 3B(11) (protected sum), in paragraph 3(4) (persons not entitled to a protected sum)—

(a) “on review” in each place where it occurs shall be omitted; and

(b) in head (a) for “that review” there shall be substituted “that determination”.

Amendment of the Housing Benefit (General) Regulations

8.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(12) shall be amended in accordance with paragraphs (2) and (3).

(10) Schedule 3 was substituted by Schedule 1 to [S.R. 1995 No. 301](#)

(11) Schedule 3B was inserted by paragraph 18 of Schedule 1 to [S.R. 1989 No. 139](#) and paragraph 3(4) was added by regulation 9(c) (ii) of [S.R. 1989 No. 395](#)

(12) [S.R. 1987 No. 461](#); relevant amending regulations are [S.R. 1995 Nos. 89 and 129](#) and [S.R. 1996 No. 334](#)

(2) In regulation 2(1) (interpretation) the definition of “adjudication officer”(13) shall be omitted.

(3) In regulation 95(4A)(14) (withholding of benefit) for “an adjudication officer” in both places where it occurs there shall be substituted “the Department”.

Amendment of the Social Security (Claims and Payments) Regulations

9.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(15) shall be amended in accordance with paragraphs (2) to (14).

(2) Subject to paragraphs (5)(b), (9) and (14), for “the adjudicating authority” and “an adjudicating authority” in each place where they occur there shall be substituted “the Department”.

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

(a) the definition of “adjudicating authority” shall be omitted; and

(b) in the definition of “claim for benefit” in paragraph (c) for “the review of an award or”—

(i) in the first place where it occurs there shall be substituted “a revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order of”, and

(ii) in the second place where it occurs there shall be substituted “a revision or a supersession of”.

(4) In regulation 3 (claims not required for entitlement to benefit in certain cases) for paragraph (g)(16) there shall be substituted the following paragraph—

“(g) in the case of a jobseeker’s allowance where—

(i) payment of benefit has been suspended under regulation 16(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999, and

(ii) the claimant, whose benefit has been suspended, satisfies the conditions of entitlement (apart from the requirement to claim) to that benefit immediately the suspension ends;”.

(5) In regulation 13 (advance claims and awards)—

(a) in paragraph (1) for “that authority” there shall be substituted “the Department”; and

(b) in paragraph (2) for “An award under paragraph (1)(b) shall be reviewed by the adjudicating authority” there shall be substituted “A decision pursuant to paragraph (1)(b) to award benefit may be revised under Article 10 of the 1998 Order”.

(6) In regulation 17(7) (duration of awards) “; and where those requirements are not satisfied the award shall be reviewed” shall be omitted.

(7) In regulation 26(17) (income support)—

(a) in paragraph (1) for “the day when any change of circumstances affecting entitlement is to have” there shall be substituted “the date from which a superseding decision on the ground of a relevant change of circumstances has”; and

(b) in paragraphs (2) and (3) “on review” shall be omitted.

(13) The definition of “adjudication officer” was inserted by regulation 2 of S.R. 1995 No. 129

(14) Paragraph (4A) was inserted by regulation 9(a) of S.R. 1995 No. 89 and amended by regulation 17 of S.R. 1996 No. 334

(15) S.R. 1987 No. 465; relevant amending provisions are S.R. 1988 Nos. 67 and 141, S.R. 1989 Nos. 40 and 398, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 83 and 271, S.R. 1993 Nos. 146, 149, 217 and 375, S.R. 1996 Nos. 354 and 432, S.R. 1998 No. 182 and S.R. 1999 Nos. 246 (C. 20) and 428 (C. 32)

(16) Paragraph (g) was added by regulation 2(3) of S.R. 1996 No. 354 and amended by Article 5(3) of S.R. 1999 No. 428 (C. 32)

(17) Regulation 26 was amended by regulation 6 of S.R. 1988 No. 141, regulation 4 of S.R. 1989 No. 40 and regulation 2(3) of S.R. 1993 No. 217

- (8) In regulation 26A(18) (jobseeker's allowance)—
- (a) in paragraph (4)—
 - (i) for “an award of jobseeker's allowance is revised or superseded” there shall be substituted “a decision in respect of a claim for jobseeker's allowance is superseded”, and
 - (ii) for “revised or superseded award” there shall be substituted “supersession”;
 - (b) in paragraph (5) for “revised or superseded award” in both places where it occurs there shall be substituted “supersession”;
 - (c) in paragraph (6)—
 - (i) for “revised or superseded award” there shall be substituted “supersession”, and
 - (ii) for “the award is again revised or superseded, the award, as again revised or superseded” there shall be substituted “a further superseding decision is made, that further superseding decision”;
 - (d) in paragraph (7) for “revised or superseded award, that revised or superseded award” there shall be substituted “supersession, that supersession”; and
 - (e) in paragraph (8) for “will be impracticable to give effect to that revised or superseded award in accordance with the other provisions of this regulation, the revised or superseded award” there shall be substituted “is impracticable for a supersession to have effect in accordance with the other provisions of this regulation, the supersession”.
- (9) In regulation 31(4) (time and manner of payments of industrial injuries gratuities) “but any such decision may be varied by any adjudicating authority by whom the award of that gratuity is varied” shall be omitted.
- (10) In Part V (suspension and extinguishment), in the heading “SUSPENSION AND” shall be omitted.
- (11) In regulation 37(2A)(19) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period)—
- (a) in sub-paragraph (a) for “the Department has” there shall be substituted “it”; and
 - (b) in sub-paragraph (c)—
 - (i) “the Department has certified” and “that”, in each place where it occurs, shall be omitted, and
 - (ii) in head (ii) for “it” there shall be substituted “the Department”.
- (12) In Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—
- (a) in the heading for “change of circumstances” there shall be substituted “superseding decision”; and
 - (b) in paragraph 7(20) (date when change of circumstances is to take effect)—
 - (i) for the heading there shall be substituted “Date from which superseding decision on ground of change of circumstances takes effect”,
 - (ii) in sub-paragraph (1) for “changed because of a change of circumstances that change of circumstances” there shall be substituted “changed by a superseding decision made on the ground of a change of circumstances that superseding decision”,

(18) Regulation 26A was inserted by regulation 2(14) of [S.R. 1996 No. 354](#) and amended by regulation 6(2) of [S.R. 1998 No. 182](#) and Article 5(6) of [S.R. 1999 No. 428 \(C. 32\)](#)

(19) 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](#)

(20) Paragraph 7 was substituted by regulation 7(9) of [S.R. 1990 No. 398](#) and amended by regulation 7(10)(b) of [S.R. 1992 No. 83](#), paragraph 3(2) of Schedule 2 to [S.R. 1993 No. 149](#) and regulation 6(3) of [S.R. 1998 No. 182](#)

(iii) in sub-paragraph (2) for “the decision given on review” there shall be substituted “the superseding decision”, and

(iv) for sub-paragraphs (4) to (6) there shall be substituted the following sub-paragraphs—

“(4) A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 31(1)(b) or (2) or 39C(3)(**21**) of the Income Support Regulations shall have effect on the day on which that payment is treated as paid.

(5) Where—

(a) it is decided upon supersession on the ground of a relevant change of circumstances that the amount of income support is, or is to be, reduced; and

(b) the Department certifies that it is impracticable for a superseding decision to have effect from the day prescribed in the preceding sub-paragraphs (other than where sub-paragraph (3)(f) or (4) applies),

that superseding decision shall have effect—

(i) where the relevant change has occurred, from the first day of the benefit week following that in which the superseding decision is made, or

(ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which the change of circumstances is expected to occur.

(6) Where—

(a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in sub-paragraph (3)(b) to (f); and

(b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”),

that subsequent decision shall have effect from the date of the second change.”.

(13) In Schedule 8A(**22**) (deductions from benefits and direct payment to third parties)—

(a) in paragraph 6(4) (fuel costs) for “that determination falls to be reviewed” there shall be substituted “a decision which embodies that determination falls to be superseded”; and

(b) in paragraph 7A(1)(**23**) (payments in place of payments of child support maintenance) for “that Order” there shall be substituted “the Child Support (Northern Ireland) Order 1991”.

(14) In Schedule 8B(**24**) (deductions of mortgage interest from benefit and payment to qualifying lenders), in paragraph 3(1) (specified part of relevant benefit) for “the adjudicating authority in accordance with regulation 34ZA, shall be paid by the Department” there shall be substituted “the Department in accordance with regulation 34ZA, shall be paid”.

(21) Regulation 39C was inserted by regulation 3(3) of [S.R. 1998 No. 182](#)

(22) Schedule 8A was inserted by [S.R. 1988 No. 67](#); relevant amending provisions are [S.R. 1993 No. 146](#) and [S.R. 1999 No. 246 \(C. 20\)](#)

(23) Paragraph 7A was inserted by regulation 2(3) of [S.R. 1993 No. 146](#) and sub-paragraph (1) was amended by Article 5 of [S.R. 1999 No. 246 \(C. 20\)](#)

(24) 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](#)

Amendment of the Social Fund (Application for Review) Regulations

10. In regulation 2 of the Social Fund (Application for Review) Regulations (Northern Ireland) 1988⁽²⁵⁾ (manner of making application for review or further review and time limits)—

- (a) in paragraph (1) for “a social fund officer” in both places where it occurs there shall be substituted “an appropriate officer”; and
- (b) in paragraphs (3) and (5) for “the social fund officer” there shall be substituted “the appropriate officer”.

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

11.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988⁽²⁶⁾ shall be amended in accordance with paragraphs (2) to (11).

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

- (a) after the definition of “the Order” there shall be inserted the following definition—

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

- (b) for the definition of “adjudicating authority”⁽²⁷⁾ there shall be 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;”.

(3) In regulation 2(1)(b) (making of interim payments) for “a reference, review,” there shall be substituted “an”.

(4) In regulation 5(2) (offsetting prior payment against subsequent award)—

- (a) for Case 1 there shall be substituted—

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

Case 1: 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

- (b) in Case 2 “, on review or appeal,” shall be omitted.

(5) In regulation 8(2) (duplication and prescribed payments) for “on review” there shall be substituted “by way of revision or supersession”.

(6) In Part VI (revision of determination and calculation of amount recoverable), in the heading “REVISION OF DETERMINATION AND” shall be omitted.

(7) In regulation 12 (circumstances in which determination need not be revised)—

- (a) in the heading for “revised” there shall be substituted “reversed, varied, revised or superseded”;
- (b) for “or revision of determination” there shall be substituted “, revision or supersession”;
and

⁽²⁵⁾ [S.R. 1988 No. 20](#), to which there are amendments not relevant to this order

⁽²⁶⁾ [S.R. 1988 No. 142](#); relevant amending regulations are [S.R. 1992 No. 6](#)

⁽²⁷⁾ The definition of “adjudicating authority” was amended by regulation 14(2)(a) of [S.R. 1992 No. 6](#)

- (c) for “for reviewing and revising the determination under which payment was made” there shall be 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”.
- (8) In regulation 23 (increase of amount of award on appeal or review)—
 - (a) in the heading for “review” there shall be substituted “otherwise”;
 - (b) for “on review by an adjudicating authority” there shall be substituted “otherwise”; and
 - (c) in paragraph (b) for “were the earnings subsequently reviewed under regulation 24” there shall be substituted “,where a notice of variation of protected earnings is given under regulation 24, were the earnings stated in that notice”.
- (9) In regulation 24 (review of determination of protected earnings)—
 - (a) for the heading there shall be substituted “Notice of variation of protected earnings”;
 - (b) paragraph (1) shall be omitted; and
 - (c) for paragraph (2) there shall be substituted the following paragraph—

“(2) The Department shall give a claimant’s employer written notice varying the deduction notice where a decision as to a claimant’s protected earnings is revised or superseded.”.
- (10) In regulation 25(2)(b) (power to serve further deduction notice on resumption of employment) for “reviewed under regulation 24” there shall be substituted “varied”.
- (11) In regulation 26 (right of the Department to recover direct from the claimant) for “the Department has received a decision of the adjudicating authority under regulation 19 and it is at any time not practicable for it” there shall be substituted “, at any time, it is not practicable for the Department”.

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

- 12.—**(1) The Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations (Northern Ireland) 1996(28) shall be amended in accordance with paragraphs (2) to (4).
- (2) In regulation 2(1) (interpretation) after the definition of “the 1996 Order” there shall be inserted the following definition—
- ““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”.
- (3) In Part IV (determination and review of benefit recouped), in the heading “and Review” shall be omitted.
- (4) 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 shall be 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 make a decision as to the amount of jobseeker’s allowance or, as the case may be, income support 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 from such a decision 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.”.

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

13.—(1) The Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996⁽²⁹⁾ shall be amended in accordance with paragraphs (2) to (5).

(2) In—

- (a) regulation 5(4)(c)(ii) and (6) (periods of entitlement which do not qualify);
- (b) regulation 8(5)(b) (amount payable); and
- (c) regulation 25(1) (award of bonus),

for “adjudication officer” there shall be substituted “Department”.

(3) In regulation 8(4)(c) and (d) for “review” there shall be substituted “revision or supersession”.

(4) In regulation 9(2) (Department to issue estimates) for “upon the adjudication officer when he makes his” there shall be substituted “when it makes its”.

(5) In regulation 25(1) for “he” there shall be substituted “it”.

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

14.—(1) The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996⁽³⁰⁾ shall be amended in accordance with paragraphs (2) to (7).

(2) Subject to paragraphs (4) and (6)(a), for “the adjudicating authority” and “an adjudicating authority” in each place where they occur there shall be substituted “the Department”.

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

- (a) after the definition of “the Employment Rights Order” there shall be inserted the following definition—

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

- (b) the definition of “adjudicating authority” shall be omitted.

(4) In regulation 4 (notional earnings)—

- (a) in paragraph (1) for “of the determination of the claim or of any subsequent review, the adjudicating authority shall treat the claimant” there shall be 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
- (b) in paragraph (2) for “the adjudicating authority shall treat the claimant” there shall be substituted “the claimant shall be treated”.

⁽²⁹⁾ S.R. 1996 No. 519, to which there are amendments not relevant to this order

⁽³⁰⁾ S.R. 1996 No. 520, to which there are amendments not relevant to this order

(5) 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 shall be substituted “on which a revision or supersession of a decision falls to be made”.

(6) In regulation 13(8) (calculation of net profit of self-employed earners)—

(a) for “The adjudicating authority shall refuse to make a deduction” there shall be substituted “A deduction shall not be made”; and

(b) for “it is not” there shall be substituted “the Department is not”.

(7) 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 shall be substituted “on which a decision is made by the Department under Chapter II of Part II of the Order or regulations made thereunder”.

Amendment of the Social Security (Recovery of Benefits) Regulations

15. In regulation 12 of the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997(31) (transitional provisions)—

(a) for paragraph (3) there shall be substituted the following paragraphs—

“(3) Any appeal under section 94 of the Administration Act made on or after 6th October 1997 shall be referred to an appeal tribunal.

(3A) Any appeal made before 6th October 1997 which has not been referred to a medical appeal tribunal or a social security appeal tribunal shall be referred to and determined by an appeal tribunal.

(3B) Any appeal made before 6th October 1997 and referred to a medical appeal tribunal shall be determined by an appeal tribunal which shall determine all issues.

(3C) Any appeal made before 6th October 1997 and referred to a social security appeal tribunal shall be determined by an appeal tribunal which shall consist of a legally qualified panel member and, in making its determination, the appeal tribunal shall be bound by any decision of a medical appeal tribunal to which a question under section 94(5) of the Administration Act was referred.

(3D) An appeal tribunal shall completely rehear any appeal under section 94 of the Administration Act which stands adjourned immediately before 29th November 1999.

(3E) Where a Commissioner holds that the decision of a medical appeal tribunal or a social security appeal tribunal on an appeal made before 6th October 1997 was erroneous in law and refers the case to an appeal tribunal, that appeal tribunal shall determine all issues in accordance with the Commissioner’s direction.

(3F) Regulations 11 and 12 of the Recoupment Regulations shall have effect in relation to any appeal under section 94 of the Administration Act made on or after 6th October 1997 as if for “chairman” in each place where it occurs there were substituted “legally qualified panel member”.

(3G) Regulation 13 of the Recoupment Regulations shall have effect in relation to any appeal under section 94 of the Administration Act made on or after 6th October 1997.

(3H) Any other transitional question arising from an appeal made under section 94 of the Administration Act in consequence of the coming into operation of the Decisions and Appeals Regulations shall be determined by a legally qualified panel member who

may, for this purpose, give such directions consistent with these Regulations as are necessary.

(3I) For the purposes of paragraphs (3) to (3B) and (3E) an appeal tribunal shall be constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998 as if the appeal were made under Article 13(1)(b) of the Order.”; and

(b) after paragraph (7) there shall be added the following paragraph—

“(8) In this regulation—

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽³²⁾;

“the Recoupment Regulations” means the Social Security (Recoupment) Regulations (Northern Ireland) 1990⁽³³⁾;

“legally qualified panel member” has the same meaning as in regulation 1(2) of the Decisions and Appeals Regulations.”.

Amendment of the Social Fund Winter Fuel Payment Regulations

16.—(1) The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998⁽³⁴⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) the definition of “the Administration Act” shall be omitted.

(3) In regulation 4 (official records) for paragraph (2) there shall be substituted the following paragraph—

“(2) Paragraph (1) shall not apply so as to exclude the revision of a decision under Article 10 of the Social Security (Northern Ireland) Order 1998 or the supersession of a decision under Article 11 of that Order or the consideration of fresh evidence in connection with the revision or supersession of a decision.”.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

17. In regulation 7 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (date from which a decision superseded under Article 11 takes effect)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) This regulation—

(a) is, except for paragraph (2)(b), subject to regulations 26 and 26A of, and paragraph 7 of Schedule 7 to, the Claims and Payments Regulations; and

(b) contains exceptions to the provisions of Article 11(5) as to the date from which a decision under Article 11 which supersedes an earlier decision is to take effect.”; and

(b) in paragraph (2)—

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) from the date the change occurred or, where the change does not have effect until a later date, from the first date on which such effect occurs where—

(i) the decision is advantageous to the claimant, and

⁽³²⁾ S.R. 1999 No. 162

⁽³³⁾ S.R. 1990 No. 85, to which there are amendments not relevant to this order

⁽³⁴⁾ S.R. 1998 No. 3, to which there are amendments not relevant to this order

- (ii) the change was notified to an appropriate office within one month of the change occurring or within such longer period as may be allowed under regulation 8 for the claimant's failure to notify the change on an earlier date;”, and
- (ii) in sub-paragraph (c) head (i) shall be omitted.

Amendment of the Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order and the Social Security (1998 Order) (Commencement No. 8 and Savings, Consequential and Transitional Provisions) Order

18. In Article 4(1) of the Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999⁽³⁵⁾ and Article 4 of the Social Security (1998 Order) (Commencement No. 8 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999⁽³⁶⁾ (savings) for “of the Order” there shall be substituted “and 78(2) of, and Schedule 7 to, the Order”.

Amendment of the Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order

19.—(1) The Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999⁽³⁷⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) In Article 4 (savings) for “of the Order” there shall be substituted “and 78(2) of, and Schedule 7 to, the Order”.

(3) In Article 6(2) (amendment of the Social Security (Attendance Allowance) Regulations) for “regulation 2(1)” there shall be substituted “regulation 1(2)”.

⁽³⁵⁾ S.R. 1999 No. 310 (C. 23)

⁽³⁶⁾ S.R. 1999 No. 371 (C. 28)

⁽³⁷⁾ S.R. 1999 No. 428 (C. 32)