

2009 No. 107

SOCIAL SECURITY

**The Social Security (Claims and Payments) (Amendment)
Regulations (Northern Ireland) 2009**

Made - - - - *13th March 2009*

Coming into operation - *6th April 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(j) and (m) and 165(1) and (3) to (6) of the Social Security Administration (Northern Ireland) Act 1992(a) and now vested in it(b).

Citation and commencement

1. These Regulations may be cited as the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 6th April 2009.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—

(a) in paragraph (2)—

(i) after “paragraph (1) applies” insert “(other than widowed mother’s allowance and widow’s pension)”, and

(ii) for “appropriate pay day”, in both places it occurs, substitute “first day of the benefit week”;

(b) after paragraph (2) insert—

“(2A) Subject to paragraph (2B), where there is a change in the rate of bereavement allowance, widowed mother’s allowance, widowed parent’s allowance or widow’s pension, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the first day of the benefit week next following.

(2B) Paragraph (2A) shall not apply in a case where an award of benefit is terminated and benefit is paid in arrears.

(a) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), section 165(3) was amended by paragraph 10 of Schedule 4 to the Tax Credits Act 2002 (c. 21) and section 165(6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1988 No. 141, S.R. 1992 No. 7, S.R. 1994 No. 456, S.R. 1996 No. 354, S.R. 1999 No. 365, S.R. 2000 No. 404, S.R. 2001 No. 108, S.R. 2002 No. 297, S.R. 2003 No. 191, S.R. 2005 No. 46 and S.R. 2008 Nos. 286 and 417

(2C) Where a benefit specified in paragraph (2A) is paid in advance and the award is terminated, the termination, if it would otherwise take effect on a day which is not the first day of a benefit week, shall take effect on the first day of the benefit week next following.”;

(c) in paragraph (3)(a) for sub-paragraph (c) substitute—

“(c) in any other case is—

- (i) when paid in advance, the day of the week on which the benefit is payable in accordance with regulation 22 or 22A (long term benefits and bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension),
- (ii) when paid in arrears, the first day of the period of 7 days which ends on the day on which the benefit is payable in accordance with regulation 22 or 22A.”; and

(d) in paragraph (4)(b) after “state pension credit” insert “, bereavement allowance, widowed parent’s allowance”.

(3) In regulation 22(1)(c) (long term benefits) for “regulation 25(1)” substitute “regulations 22A and 25(1)”.

(4) After regulation 22 insert—

“Bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension

22A.—(1) Subject to paragraphs (2) and (4), bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension shall be paid fortnightly in arrears on the day of the week specified in paragraph (3).

(2) The Department may, in any particular case or class of case, arrange that a benefit specified in paragraph (1) be paid on any other day of the week.

(3) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

| <i>Column (1)</i> | <i>Column (2)</i> |
|-------------------|-------------------|
| 00 to 19 | Monday |
| 20 to 39 | Tuesday |
| 40 to 59 | Wednesday |
| 60 to 79 | Thursday |
| 80 to 99 | Friday. |

(4) The Department may, in any particular case or class of case, arrange that the beneficiary be paid weekly in advance or in arrears or, where the beneficiary agrees to be paid in such manner, at intervals of 4 or 13 weeks in arrears.

Payment of bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension at a daily rate

22B.—(1) Where entitlement to a bereavement allowance or widowed parent’s allowance begins on a day which is not the first day of the benefit week, it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(a) Paragraph (3) was substituted by regulation 3(b) of S.R. 1988 No. 141 and amended by regulation 9(d) of S.R. 1992 No. 7 and regulation 2(3) of S.R. 1999 No. 365
 (b) Paragraph (4) was amended by regulation 3(c) of S.R. 1988 No. 141, regulation 2(7) of S.R. 1994 No. 456, regulation 2(9) of S.R. 1996 No. 354, regulation 7(1) of S.R. 2003 No. 191 and regulation 13(11) of S.R. 2008 No. 286
 (c) Regulation 22(1) was substituted by regulation 2(3) of S.R. 2002 No. 297 and amended by regulation 2(5) of S.R. 2008 No. 417

(2) Where the Department changes the day on which a benefit mentioned in paragraph (5) is payable, the benefit shall be paid at a daily rate in respect of any day for which payment would have been made but for that change

(3) An award of benefit mentioned in paragraph (5) shall be paid at a daily rate where—

- (a) the award is terminated;
- (b) entitlement ends on a day other than the last day of the benefit week; and
- (c) the benefit is paid in arrears.

(4) Where benefit is paid at a daily rate in the circumstances mentioned in paragraph (3), it shall be so paid in respect of the period beginning with the first day of the final benefit week and ending on the last day for which there is an entitlement to the benefit.

(5) Paragraphs (2) and (3) apply to—

- (a) bereavement allowance;
- (b) widowed mother’s allowance;
- (c) widowed parent’s allowance; and
- (d) widow’s pension.

(6) Where benefit is payable at a daily rate in the circumstances mentioned in this regulation, the daily rate shall be 1/7th of the weekly rate.”

(5) In regulation 24 (incapacity benefit, severe disablement allowance and maternity allowance)—

(a) in paragraph (1)(a)—

- (i) for “paragraphs (2), (3) and (3A),” substitute “paragraphs (3) and (3A),”;
- (ii) for “and severe disablement allowance” substitute “, severe disablement allowance and maternity allowance”, and
- (iii) after “in any particular case” insert “or class of case”;

(b) after paragraph (1) insert—

“(1A) Subject to paragraph (1B), the benefits specified in paragraph (1) shall be paid on the day of the week specified in paragraph (1C).

(1B) The Department may, in any particular case or class of case, arrange that a benefit specified in paragraph (1) be paid on any other day of the week.

(1C) The day specified for the purposes of paragraph (1A) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

| <i>Column (1)</i> | <i>Column (2)</i> |
|-------------------|-------------------|
| 00 to 19 | Monday |
| 20 to 39 | Tuesday |
| 40 to 59 | Wednesday |
| 60 to 79 | Thursday |
| 80 to 99 | Friday.”; |

(c) omit paragraphs (2)(b) and (4); and

(d) in paragraph (3A)(c) for “(whether in advance or in arrears)” substitute “in arrears”.

(6) In Schedule 6 (days for payment of long term benefits) omit paragraph 6(d).

(a) Paragraph (1) was amended by regulation 2(13) of S.R. 1996 No. 354, regulation 4(a) of S.R. 2000 No. 404 and regulation 2(5) of S.R. 2002 No. 297

(b) Paragraph (2) was amended by regulation 4(b) of S.R. 2000 No. 404 and regulation 2(5) of S.R. 2002 No. 297

(c) Paragraph (3A) was inserted by regulation 4(c) of S.R. 2000 No. 404

(d) Paragraph 6 was amended by regulation 10(6)(b) of S.R. 2001 No. 108 and regulation 2(10)(c) of S.R. 2002 No. 297

(7) In Schedule 7 (time of payment and commencement of entitlement in income support cases)—

- (a) in paragraph 2(c)(a) at the beginning insert “subject to paragraph 2ZA,”; and
- (b) after paragraph 2 insert—

“2ZA. Paragraph 2(c) shall only apply where a widow’s benefit or a bereavement benefit is paid in advance.”.

Amendment of the Jobseeker’s Allowance Regulations

3. In regulation 1(2) (interpretation) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(b) for the definition of “benefit week” substitute—

““benefit week” means—

- (a) a period of 7 days ending with a day determined in accordance with paragraph (b) unless, in any particular case or class of case, the Department arranges otherwise;
- (b) the day specified for the purposes of paragraph (a) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

| <i>Column (1)</i> | <i>Column (2)</i> |
|-------------------|-------------------|
| 00 to 19 | Monday |
| 20 to 39 | Tuesday |
| 40 to 59 | Wednesday |
| 60 to 79 | Thursday |
| 80 to 99 | Friday;”. |

Revocations

4. The Regulations specified in column (1) of the Schedule are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 13th March 2009

(L.S.)

John O’Neill

A senior officer of the Department for Social Development

(a) Paragraph 2 was amended by regulation 10(a) of S.R. 1988 No. 141, regulation 2(15)(a) of S.R. 1994 No. 456, regulation 2(24)(a) of S.R. 1996 No. 354, regulation 10(7)(a) of S.R. 2001 No. 108 and regulation 5(11) of S.R. 2005 No. 46
(b) S.R. 1996 No. 198; the definition of “benefit week” was amended by regulation 2(2) of S.R. 1996 No. 358, regulation 2(2)(a) of S.R. 1996 No. 503 and regulation 13(2) of S.R. 2006 No. 359

SCHEDULE

Regulation 4

Revocations

| <i>Column (1)</i> <i>Citation</i> | <i>Column (2)</i> <i>Reference</i> | <i>Column (3)</i> <i>Extent of revocation</i> |
|--|---------------------------------------|--|
| The Social Security and Child Support (Jobseeker's Allowance) (Amendment) Regulations (Northern Ireland) 1996 | S.R. 1996 No. 358 | Regulation 2(2) |
| The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 1996 | S.R. 1996 No. 503 | Regulation 2(2)(a) |
| The Social Security (Incapacity Benefit) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 | S.R. 2000 No. 404 | Regulation 4(a) and (b) |
| The Social Security (Benefits for Widows and Widowers) (Consequential Amendments) Regulations (Northern Ireland) 2001 | S.R. 2001 No. 108 | Regulation 10(6)(b) |
| The Social Security (Claims and Payments) (Amendment No. 3) Regulations (Northern Ireland) 2002 | S.R. 2002 No. 297 | Regulation 2(10)(c) |
| The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2006 | S.R. 2006 No. 359 | Regulation 13(2) |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) and the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”).

Regulation 2(2)(b) inserts paragraphs (2A) to (2C) into regulation 16 of the Claims and Payments Regulations to provide that where bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension are paid in advance, and either the rate of the benefit changes or the award is terminated, that change or termination, if it would otherwise take effect on a day other than the first day of the benefit week, shall take effect on the first payday of the following benefit week.

Regulation 2(2)(d) adds bereavement allowance and widowed parent’s allowance to the list of benefits specified in regulation 16(4) of the Claims and Payments Regulations to exclude those benefits from the scope of paragraph (1) of that regulation which determines the date of entitlement of an award of benefit so that certain benefits are only payable from the next payday.

Regulation 2(4) inserts regulations 22A and 22B into the Claims and Payments Regulations and regulation 2(5)(b) amends regulation 24 of those Regulations to enable—

bereavement allowance, widowed mother’s allowance, widowed parent’s allowance, widow’s pension, incapacity benefit, severe disablement allowance and maternity allowance to be paid weekly or fortnightly in arrears;

a person’s payday to be determined in accordance with their national insurance number; and

bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension to be paid at a daily rate in certain circumstances.

Regulation 2(2)(a) and (c), (3), (5)(a), (c) and (d) and (6) makes consequential amendments to regulations 16, 22 and 24 of, and Schedule 6 to, the Claims and Payments Regulations.

Regulation 2(7) amends paragraph 2 of Schedule 7 to the Claims and Payments Regulations to provide that income support is only paid in advance if the claimant is also in receipt of widow’s benefit or bereavement benefit which is paid in advance.

Regulation 3 substitutes the definition of “benefit week” in the Jobseeker’s Allowance Regulations to enable a person’s payday to be determined in accordance with their national insurance number.

Regulation 4 makes consequential revocations.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions 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.

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