

2009 No. 108

SOCIAL SECURITY

**The Social Security (Transitional Payments) 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 165(1) and (3) to (6) of the Social Security Administration (Northern Ireland) Act 1992(a) and now vested in it(b).

Citation, commencement and interpretation

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

(2) In these Regulations the “Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c).

Transitional payment

2.—(1) This regulation applies where, in accordance with regulation 22A(4) of, and paragraph 2ZA of Schedule 7 to, the Claims and Payments Regulations(d) (bereavement benefits and time of payment), the Department changes the manner in which a benefit mentioned in paragraph (2) is paid from weekly payments in advance to weekly payments in arrears.

(2) The benefits are income support, widowed mother’s allowance, widowed parent’s allowance and widow’s pension.

(3) Where this regulation applies, a person shall be entitled to a transitional payment determined in accordance with paragraph (4).

(4) The amount of the transitional payment shall be equivalent to the gross amount of benefit payable in respect of the last period of 7 days for which benefit was payable in advance.

(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 Nos. 67, 141 and 369, S.R. 1989 No. 398, S.R. 1992 No. 271, S.R. 1994 No. 456, S.R. 1996 No. 354, S.R. 2001 No. 22, S.R. 2000 No. 404, S.R. 2002 No. 297, S.R. 2003 No. 191, S.R. 2006 No. 168 and S.R. 2009 No. 107

(d) Regulation 22A and paragraph 2ZA of Schedule 7 are inserted by regulation 2(4) and (7)(b) of S.R. 2009 No. 107

(5) In paragraph (4) “the gross amount” means the amount of weekly benefit payable to a person before any deductions have been made—

- (a) under regulation 34ZA, 34ZB or 34A of the Claims and Payments Regulations(a) (deductions from benefit and payment to third parties); or
- (b) in respect of overpayment recovery or recovery of social fund loans under section 69, 72 or 74 of the Social Security Administration (Northern Ireland) Act 1992(b) (overpayments, income support and other payments and recovery of social fund awards).

Adjusting payment of benefit

3.—(1) This regulation applies where, in accordance with regulations 22A(1) and 24(1) of, and paragraphs 1 and 3 of Schedule 7 to, the Claims and Payments Regulations(c) (bereavement benefits, incapacity benefit, severe disablement allowance and maternity allowance and time of payment), the Department changes the manner in which a benefit mentioned in paragraph (2) is paid from weekly payments in arrears to fortnightly payments in arrears.

(2) The benefits are incapacity benefit, income support, severe disablement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension.

(3) Subject to paragraph (6), where this regulation applies, a person shall be entitled, on making a request to the Department, to an adjusting payment of benefit determined in accordance with paragraph (5).

(4) A request under paragraph (3) may only be made on a day before the day on which the first fortnightly payment is due.

(5) The amount of the adjusting payment of benefit shall be the person’s net weekly benefit payable in respect of the last period of 7 days for which benefit was payable weekly in arrears, rounded up so as to be divisible by 12.

(6) The Department shall not pay an adjusting payment of benefit where a person’s net weekly benefit is less than £4.00 in respect of the period of 7 days ending on the payday which the Department has indicated will be the final payday for the purposes of paying the person at weekly intervals.

(7) In paragraphs (5) and (6), “net weekly benefit” means the amount of weekly benefit payable to a person after any deductions have been made—

- (a) under regulation 34ZA, 34ZB or 34A of the Claims and Payments Regulations; or
- (b) in respect of overpayment recovery or recovery of social fund loans under section 69, 72 or 74 of the Social Security Administration (Northern Ireland) Act 1992.

(a) Regulation 34ZA was inserted by regulation 2 of S.R. 1992 No. 271 and amended by regulation 12(1) of S.R. 2003 No. 191, regulation 34ZB was inserted by regulation 12(2) of S.R. 2003 No. 191 and regulation 34A was inserted by regulation 2(2) of S.R. 1988 No. 67 and amended by regulation 7(b) of S.R. 1988 No. 141, regulation 3(7) of S.R. 1988 No. 369, regulation 3 of S.R. 1992 No. 271, regulation 2(2) of S.R. 2001 No. 22 and regulation 2(9) of S.R. 2002 No. 297

(b) Section 69 was amended by Article 33(1) of, and paragraph 31 of Schedule 2 and Schedule 3 to, the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 2 of the Social Security (Overpayments) Act 1996 (c. 51), paragraph 62 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, paragraph 8 of Schedule 4 and Schedule 6 to the Tax Credits Act 2002, paragraph 10 of Schedule 2 to the State Pension Credit Act ((Northern Ireland) 2002 (c. 14 (N.I.))), paragraph 110 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), section 41 of, and paragraph 4(6) of Schedule 3 and Schedule 8 to, the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and section 135(4) of the Health and Social Care Act 2008 (c. 14), section 72 was amended by paragraph 33 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, paragraph 11 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 8 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 and regulation 2 of S.R. 2008 No. 413 and section 74 was amended by paragraph 186 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), Article 33(2) of, and paragraph 34 of Schedule 2 to, the Jobseekers (Northern Ireland) Order 1995 and paragraph 113 of Schedule 24 to the Civil Partnership Act 2004

(c) Regulation 24(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 and in Schedule 7 paragraph 1 was substituted by regulation 2(16) of S.R. 2006 No. 168 and paragraph 3 was amended by regulation 7(2) of S.R. 1989 No. 398 and regulation 2(15)(b) of S.R. 1994 No. 456

Adjustment of subsequent payments following an adjusting payment of benefit

4.—(1) Subject to paragraph (5), where an adjusting payment of benefit is made under regulation 3, the amount of that payment shall be recovered by means of an adjustment in subsequent payments of benefit in accordance with paragraphs (2) to (4).

(2) A person's benefit payments shall be adjusted over a period of 12 consecutive weeks ("the adjustment period").

(3) The first payment from which an adjusting payment of benefit shall be recovered is the payment that is due on the second occasion on which the person is due to receive payment of benefit at fortnightly intervals.

(4) The amount by which the person's weekly benefit is to be reduced on each occasion during the adjustment period shall be 1/12th of the adjusting payment of benefit.

(5) The Department may, in any particular case or class of case, recover the whole of an adjusting payment of benefit, or the residue of it if partly recovered, by adjusting subsequent payments of the same benefit over any period of time.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of a one-off transitional payment and an adjusting payment of benefit.

Regulation 2 provides for a one-off transitional payment to be made where payments to persons in receipt of income support, widowed mother's allowance, widowed parent's allowance and widow's pension are changed from weekly in advance to weekly in arrears.

Regulation 3 makes provision for an adjusting payment of benefit to be made where payments to persons in receipt of incapacity benefit, income support, severe disablement allowance, widowed mother's allowance, widowed parent's allowance and widow's pension are changed from weekly in arrears to fortnightly in arrears.

Regulation 4 makes provision for the recovery of an adjusting payment of benefit.

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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