

EXPLANATORY MEMORANDUM TO

The Social Security (Miscellaneous Amendments No. 6) Regulations (Northern Ireland) 2010

SR 2010 No. 345

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule will amend the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”); the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”) and the Employment and Support Allowance Regulations (Northern Ireland) 2008, (“the Employment and Support Allowance Regulations”). For simplicity these Regulations are referred to in this memorandum as the income-related benefits Regulations.
- 2.2. The Regulations also make minor amendments to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987; the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations (Northern Ireland) 1996 and the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008.

3. Background

- 3.1. Twice a year the Department puts forward a package of minor miscellaneous and non-controversial amendments to the income-related benefits Regulations.
- 3.2. The main purpose of these Regulations is to clarify, align or update various social security Statutory Rules (listed at paragraph 2.1. and 2.2). The more substantive changes are listed in 3.3 to 3.8.
- 3.3. Mortgage Interest Direct Scheme: Mortgage Interest Direct (MID) Payments can only be taken from the income-based elements of Jobseeker’s Allowance and Employment and Support Allowance. Amendments to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 will allow MID to be taken from both income-related and contributory elements of Jobseeker’s Allowance and Employment and Support Allowance.

- 3.4. Students with long term illness: Full-time education students who because of a health condition have to suspend their course and wish to claim benefits are treated as having drawn down their student loan whether or not they have actually done so – “the deemed income rule”. This amendment to the income rules in the Employment and Support Allowance Regulations will ensure that students in these circumstances are not penalised by being treated as if they have income that they do not have.
- 3.5. Categories of members of a joint claim couple: Amendments to the Jobseeker’s Allowance Regulations remove exemption categories from the Jobseeker’s Allowance joint-claim rules in order to align these with similar amendments already made in Income Support. These categories are used in income-based Jobseeker’s Allowance Rules as exceptions to the joint-claim conditions. While the exemption categories are revoked for new claims, they will continue to apply to existing cases until they cease to be entitled to Jobseeker’s Allowance or cease to be part of a Jobseeker’s Allowance joint-claim.
- 3.6. Child Dependency Increases: Child allowances and premiums are no longer paid for most children in the income-related benefits Regulations as responsibility for child payments was transferred across to H. M. Revenue and Customs as part of Child Tax Credits. In cases where no payments are made for child dependents, any income paid to or in respect of the child is not taken into account. Where a child dependency increase is paid through another benefit, such as Incapacity Benefit or Carer’s Allowance, clarification is needed to confirm that child dependency increases should be disregarded in the income-related benefits Regulations in the same way as other income paid in respect of a child, such as Child Benefit and Child Tax Credits.
- 3.7. Employment Protection – Recoupment of benefits: Regulations allow for the Department to recover (recoup) from an employer sums of any Jobseeker’s Allowance or Income Support paid in circumstances where an industrial tribunal has awarded in favour of the employee, and wages are to be paid for the same period as the benefit award. The Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations (Northern Ireland) 1996 are amended to extend the recoupment of benefit paid to include payments of income-related Employment and Support Allowance.
- 3.8. Clarification of “ work-related activity component” within Incapacity Benefit: Incapacity Benefit work-focused interview regulations provide that a customer shall have their benefit reduced by an amount equivalent to either 50% or 100% of a work-related activity component (WRAC) because of failure to show good cause for not taking part in a work-focused interview. The WRAC is a reference to an amount specified under the Employment and Support Allowance Regulations. This reference is less clear in the Incapacity Benefit (Work-focused Interviews) Regulations (Northern Ireland) 2008 and this change will clarify the policy intention.
- 3.9. Previous amendments revoked certain paragraphs in Schedule 1B to the Income Support General Regulations leaving a stray and unexplained

reference to “that Act”. Amendments will substitute “the Contributions and Benefits Act” for “that Act” and also remove an old reference to an “expected week of confinement” prior to April 2003.

4. Consultation

- 4.1. The Social Security Advisory Committee were consulted on the Great Britain proposals and were in agreement that they did not require the proposals to be formally referred.

5. Equality Impact

- 5.1. The changes proposed do not provide any new benefit or service but align, correct or clarify the treatment of income or capital in the income-related benefits Regulations.
- 5.2. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The change to the “deemed income rule” in the Employment and Support Allowance Regulations to benefit seriously ill students is the only proposal with a financial implication and it is likely to be met from existing budgets. The financial costs of the remainder of these changes are neutral as any costs or savings will be negligible.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department’s judgement that the Social Security (Miscellaneous Amendments No. 6) Regulations (Northern Ireland) 2010 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Regulations mirror the Great Britain Regulations and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

- 11.1. Not applicable.