

2010 No. 6

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
(Northern Ireland) 2010**

Made - - - - - *13th January 2010*

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a), 123(1)(e), 131(1), 132(3) and (4)(a), (b) and (c) 133(2)(d) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 6(5), 14(1), (2) and (4)(a), (b) and (c), 15 and 36(2) of, and paragraphs 1(2)(b) and 8A, of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(b), sections 115(3), (4) and (8), of the Immigration and Asylum Act 1999(c), and now vested in it(d), and sections 17(1), (2) and (3)(a), (b) and (c) and 25(2) of, and paragraph 6(3)(b) of Schedule 1 to, the Welfare Reform Act (Northern Ireland) 2007(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2010.

(2) Subject to paragraph (3), these Regulations come into operation on 25th January 2010.

(3) Regulations 2(1) and 3(2)(c) and (d) and (5)(a), so far as they relate to a particular beneficiary who is not a person falling within regulation 2(2), come into operation on the first day of the first benefit week to commence for that beneficiary on or after 25th January 2010.

(4) In this regulation—

“benefit week”—

(a) in relation to income support, has the same meaning as in regulation 2(1)(f) (interpretation) of the Income Support (General) Regulations (Northern Ireland) 1987(g);

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- (a) 1992 c. 7; section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to, the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and the word “and” was repealed by Schedule 3 to, the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2, to the Jobseekers (Northern Ireland) Order 1995, section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21)
- (b) S.I. 1995/2705 (N.I. 15); Article 15 was amended by paragraph 10 of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Article 36(2) was amended by paragraph 55 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 8A was inserted by paragraph 16(2) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (c) 1999 c. 33
- (d) See Article 8(b) of S.R. 1999 No. 481
- (e) 2007 c. 2 (N.I.)
- (f) The definition of “benefit week” was amended by regulation 2(a) of S.R. 1988 No. 318
- (g) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 193, 274 and 318, S.R. 1989 No. 249, S.R. 1996 No. 199, S.R. 2000 Nos. 71 and 350, S.R. 2002 No. 132, S.R. 2003 Nos. 195 and 267 and S.R. 2006 No. 97

- (b) in relation to a jobseeker’s allowance, has the same meaning as in regulation 1(2)(a) (interpretation) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(b);
- (c) in relation to an employment and support allowance, has the same meaning as in regulation 2(1) (interpretation) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(c);

“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2008;

“the Immigration and Asylum Regulations” means the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000(d);

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987, and

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996.

(5) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Assembly.

Abolition (subject to savings) of urgent case payments

2.—(1) Subject to paragraphs (2) to (4), the following provisions are omitted—

- (a) Part VI of the Income Support Regulations (urgent cases);
- (b) Part X of the Jobseeker’s Allowance Regulations (urgent cases);
- (c) regulation 11(3) of the Immigration and Asylum Regulations (transitional arrangements and savings);
- (d) Part 13 of the Employment and Support Allowance Regulations (urgent cases).

(2) The provisions referred to in paragraph (1) (“the relevant provisions”) continue to have effect in relation to a person who, on the day before the day on which these Regulations come into operation, is a person (“P”) to whom regulation 70(2)(b) of the Income Support Regulations, regulation 147(2)(b) of the Jobseeker’s Allowance Regulations or (as the case may be) regulation 162(2) of the Employment and Support Allowance Regulations applies.

(3) Where on the day before the day on which these Regulations come into operation P falls within paragraph 1 of Part 1 of the Schedule to the Immigration and Asylum Regulations, the relevant provisions continue to have effect in relation to P until—

- (a) the expiry of the period, or the aggregate of any periods, of 42 days during any one period of leave to which paragraph 1 of Part 1 of that Schedule applies, or
- (b) the day on which P no longer falls within paragraph 1 of Part 1 of that Schedule,

whichever shall first occur.

(4) In any other case, the relevant provisions continue to have effect in relation to P until the day on which regulation 70(2)(b) of the Income Support Regulations, regulation 147(2)(b) of the Jobseeker’s Allowance Regulations or (as the case may be) regulation 162(2) of the Employment and Support Allowance Regulations ceases to apply to P.

(a) 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, regulation 13(2) of S.R. 2006 No. 359 and regulation 3 of S.R. 2009 No. 107
 (b) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 2000 No. 350, S.R. 2002 No. 132, S.R. 2003 Nos. 195 and 267, S.R. 2006 No. 359 and S.R. 2009 No. 107
 (c) S.R. 2008 No. 280
 (d) S.R. 2000 No. 71; relevant amending Regulations are S.R. 2003 No. 421 and S.R. 2008 No. 286
 (e) 1954 c. 33 (N.I.)

Abolition of urgent case payments: supplementary provisions

3.—(1) The following consequential amendments have effect.

(2) In the Income Support Regulations—

- (a) in regulation 17(1)(a) (applicable amounts) omit “and 70” and “and urgent cases”;
- (b) in regulation 18(1)(b) (polygamous marriages) omit “and 70” and “and urgent cases”;
- (c) after regulation 22A(c) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) insert—

“Period for which applicable amount is to be calculated where person not excluded from income support under section 115 of the Immigration and Asylum Act

22B. Where paragraph 1 of Part 1 of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000(d) applies in respect of entitlement to income support, the period for which a claimant’s weekly applicable amount is to be calculated shall be any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that paragraph of that Part of the Schedule to those Regulations applies.”;

- (d) in Schedule 1B(e) (prescribed categories of person), for paragraph 21(f) (persons from abroad) substitute—

“Persons from abroad

21. A person not excluded from entitlement to income support under section 115 of the Immigration and Asylum Act by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 except for a person to whom paragraphs 2, 3 and 4 of Part 1 of the Schedule to those Regulations applies.”.

(3) In the Jobseeker’s Allowance Regulations—

- (a) in regulation 83(g) (applicable amounts) omit “or Part X” and “and urgent cases”;
- (b) in regulation 84(1)(h) (polygamous marriages) omit “or Part X (urgent cases)”;
- (c) in regulation 86A(i) (applicable amounts for joint-claim couples) omit “or Part X (urgent cases)”;
- (d) in regulation 86B(j) (applicable amounts for joint-claim couples: polygamous marriages) omit “or Part X (urgent cases)”.

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- (a) Regulation 17(1) was amended by regulation 2 of S.R. 1988 No. 193, regulation 9 of S.R. 1996 No. 199, paragraph 2(a) of Schedule 1 to, S.R. 2003 No. 195, regulation 2(3) of S.R. 2003 No. 267 and regulation 2(4)(a) of S.R. 2006 No. 97
 - (b) Regulation 18(1) was amended by regulation 5(a) of S.R. 1988 No. 274, regulation 5 of S.R. 1988 No. 318, regulation 5 of S.R. 1989 No. 249, regulation 10(a)(ii) of S.R. 1996 No. 199, paragraph 4 of Part I of the Schedule to, S.R. 2002 No. 132, paragraph 3(a) of Schedule 1 to S.R. 2003 No. 195, regulation 2(4) of S.R. 2003 No. 267 and regulation 2(4)(b) of S.R. 2006 No. 97
 - (c) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199
 - (d) S.R. 2000 No. 71
 - (e) Schedule 1B was inserted by Schedule 1 to S.R. 1996 No. 199
 - (f) Paragraph 21 was amended by regulation 5(9)(b) of S.R. 2000 No. 71
 - (g) Regulation 83 was amended by paragraph 4 of Part II of the Schedule to S.R. 2002 No. 132, paragraph 2(a) of Schedule 2 to S.R. 2003 No. 195 and regulation 4(3) of S.R. 2003 No. 267
 - (h) Regulation 84(1) was amended by paragraph 5 of Part II of the Schedule to, S.R. 2002 No. 132, paragraph 3(a) of Schedule 2 to S.R. 2003 No. 195 and regulation 4(4) of S.R. 2003 No. 267
 - (i) Regulation 86A was inserted by paragraph 35 of Schedule 2 to S.R. 2000 No. 350 and amended by paragraph 8 of Part II of the Schedule to, S.R. 2002 No. 132 and regulation 4(6) of S.R. 2003 No. 267
 - (j) Regulation 86B was inserted by paragraph 35 of Schedule 2 to S.R. 2000 No. 350 and amended by regulation 4(7) of S.R. 2003 No. 267

- (4) In the Employment and Support Allowance Regulations—
- (a) in regulation 67(1) (prescribed amounts) omit “and 163” and “and urgent cases”;
 - (b) in regulation 68(1) (polygamous marriages) for “regulations 69 and 163 (special cases and urgent cases)” substitute “regulation 69 (special cases)”.
- (5) In regulation 2 of the Immigration and Asylum Regulations (persons not excluded from specified benefits under section 115 of the Act)—
- (a) for paragraph (5)(a) substitute—

“(5) For the purposes of entitlement to income support, a jobseeker’s allowance, an employment and support allowance or a social fund payment under the Contributions and Benefits Act, as the case may be, a person who is an asylum seeker within the meaning of paragraph (5) of regulation 11 who has not ceased to be an asylum seeker by virtue of paragraph (6) of that regulation is a person to whom section 115 of the Act does not apply.”

;
 - (b) in paragraph (8)(b), for “state pension credit, the period for which a claimant’s state pension credit” substitute “state pension credit, or income-related employment and support allowance, as the case may be, the period for which a claimant’s state pension credit, or income-related employment and support allowance, as the case may be,”.

Revocation (subject to savings) of provisions specifying that certain persons are to be treated as not engaged in remunerative work

4.—(1) Subject to paragraphs (3) to (7), the following provisions are omitted—

- (a) in the Income Support Regulations—
 - (i) regulation 6(4)(a) and (d) (persons not treated as engaged in remunerative work), and
 - (ii) paragraphs 8 and 9 of Schedule 1B (prescribed categories of persons);
- (b) in the Jobseeker’s Allowance Regulations—
 - (i) regulation 53(c) and (h) (persons treated as not engaged in remunerative work), and
 - (ii) paragraphs 7 and 8 of Schedule A1(c) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order);
- (c) regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations (circumstances under which partners of claimants entitled to an income-related allowance are not to be treated as engaged in remunerative work).

(2) Regulations 20 to 22 (saving provision, circumstances in which regulation 20 ceases to apply and permitted period) of the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991(d) are also omitted.

(3) Paragraphs (4) to (6) apply to a person (“P”) who in respect of a period which includes the day before the date on which these Regulations come into operation—

- (a) is entitled to a specified benefit (irrespective of whether P claims the benefit before, on or after that day), and
- (b) falls within one of the provisions referred to in paragraph (1).

(4) Where the specified benefit is income support, regulation 6(4)(a) and (d) of, and paragraphs 8 and 9 of Schedule 1B to, the Income Support Regulations continue to have effect in relation to P’s entitlement to that benefit.

(a) Paragraph (5) was amended by regulation 23(3)(c) of S.R. 2008 No. 286
 (b) Paragraph (8) was inserted by regulation 6(c) of S.R. 2003 No. 421
 (c) Schedule A1 was inserted by Schedule 1 to S.R. 2000 No. 350
 (d) S.R. 1991 No. 338

(5) Where the specified benefit is a jobseeker's allowance, regulation 53(c) and (h) of, and paragraphs 7 and 8 of Schedule A1 to, the Jobseeker's Allowance Regulations continue to have effect in relation to P's entitlement to that benefit.

(6) Where the specified benefit is an employment and support allowance, regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations continue to have effect in relation to P's entitlement to that benefit.

(7) The provisions saved by paragraphs (4), (5) and (6) continue to have effect in relation to P's entitlement to the specified benefit until the day on which—

- (a) P first ceases to fall within a provision referred to in paragraph (1), or,
- (b) P first ceases to be entitled to that benefit,

whichever shall first occur.

(8) In this regulation "specified benefit" means income support, a jobseeker's allowance or an employment and support allowance.

Revocations

5.—(1) Subject to paragraphs (2) to (4) of regulation 2, the provisions specified in column (1), of Part 1 of the Schedule are revoked to the extent specified in column (3).

(2) Subject to paragraphs (3) to (7) of regulation 4, the provisions specified in column (1), of Part 2 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 January 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

SCHEDULE
Revocations

Regulation 5

PART 1

Revocations subject to paragraphs (2) to (4) of regulation 2

<i>Column (1)</i> <i>Citation</i>	<i>Column (2)</i> <i>Reference</i>	<i>Column (3)</i> <i>Extent of revocation</i>
The Income Support (General) Regulations (Northern Ireland) 1987	S.R. 1987 No. 459	In regulation 17(1) and 18(1) the words “and 70” and “and urgent cases” Part VI
The Income Support (General) (Amendment) Regulations (Northern Ireland) 1988	S.R. 1988 No. 146	Regulations 26 and 27
The Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1988	S.R. 1988 No. 318	Regulations 14 and 15 and paragraph 15 of Schedule 1
The Income Support (General) (Amendment No. 5) Regulations (Northern Ireland) 1988	S.R. 1988 No. 431	Regulation 13
The Family Credit and Income Support (General) (Amendment) Regulations (Northern Ireland) 1989	S.R. 1989 No. 249	Regulation 9
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1989	S.R. 1989 No. 365	Regulations 16 and 17
The Social Security (Persons from Abroad) (Miscellaneous Amendments) Regulations (Northern Ireland) 1996	S.R. 1996 No. 11	Regulation 4(3) and (4)
The Jobseeker’s Allowance Regulations (Northern Ireland) 1996	S.R. 1996 No. 198	In regulation 83 the words “or Part X” and “and urgent cases” In regulations 84(1), 86A and 86B the words “or Part X (urgent cases)” Part X
The Income Support (General) (Jobseeker’s Allowance Consequential Amendments) Regulations (Northern Ireland) 1996	S.R. 1996 No. 199	Regulation 18

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Income Support and Social Security (Claims and Payments) (Miscellaneous Amendments) Regulations (Northern Ireland) 1996	S.R. 1996 No. 449	Regulation 2(4)
The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1998	S.R. 1998 No. 81	Regulation 12
The Social Security (1998 Order) (Commencement No. 8 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999	S.R. 1999 No. 371 (C. 28)	Article 9(3)
The Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999	S.R. 1999 No. 428 (C. 32)	Article 9(5)(k)
The Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000	S.R. 2000 No. 71	Regulations 5(7) and (8), 10(5) and (6) and 11(3)
The Jobseeker's Allowance (Joint Claims) Regulations (Northern Ireland) 2000	S.R. 2000 No. 350	Paragraphs 46 and 47 of Schedule 2
The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2001	S.R. 2001 No. 134	Regulation 3(3)
The Social Security (Amendment) (Residential Care and Nursing Homes) Regulations (Northern Ireland) 2002	S.R. 2002 No. 132	Paragraph 11 of Part I of the Schedule and paragraphs 14 and 15 of Part II of the Schedule
The Social Security (Working Tax Credit and Child Tax Credit Consequential Amendments) Regulations (Northern Ireland) 2003	S.R. 2003 No. 195	Paragraphs 18 and 19 of Schedule 1

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Social Security (Removal of Residential Allowance and Miscellaneous Amendments) Regulations (Northern Ireland) 2003	S.R. 2003 No. 267	Regulations 2(6) and 4(8) and (9)
The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2006	S.R. 2006 No. 97	Regulation 2(4)(c)
The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2008	S.R. 2008 No. 112	Regulation 2(12)
The Employment and Support Allowance Regulations (Northern Ireland) 2008	S.R. 2008 No. 280	In regulation 67(1) the words “and 163” and “and urgent cases” Part 13
The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008	S.R. 2008 No. 286	Regulations 12(8), 19(19) and 23(4)
The Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2008	S.R. 2008 No. 428	Regulations 2(5)(d) and 4(5)(d)

PART 2

Revocations subject to paragraphs (3) to (7) of regulation 4

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Income Support (General) Regulations (Northern Ireland) 1987	S.R. 1987 No. 459	Regulation 6(4)(a) and (d) and paragraphs 8 and 9 of Schedule 1B
The Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991	S.R. 1991 No. 338	Regulations 20, 21 and 22
The Jobseeker’s Allowance Regulations (Northern Ireland) 1996	S.R. 1996 No. 198	Regulation 53(c) and (h) and paragraphs 7 and 8 of Schedule A1
The Income Support (General) (Jobseeker’s Allowance Consequential Amendments) Regulations (Northern Ireland) 1996	S.R. 1996 No. 199	Regulation 30

<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 (Miscellaneous Amendments) Regulations (Northern Ireland) 2000	S.R. 2000 No. 74	Regulation 2(d)
The Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005	S.R. 2005 No. 458	Paragraph 2 of Schedule 1 and paragraph 2 of Schedule 3
The Employment and Support Allowance Regulations (Northern Ireland) 2008	S.R. 2008 No. 280	Regulation 43(2)(a) and (d)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations abolish urgent case payments for income support, income-based jobseeker's allowance and income-related employment and support allowance. Urgent case payments, which take the form of reduced amounts of benefit, are payments which are made to certain sponsored immigrants, asylum seekers or persons whose income is temporarily interrupted, to prevent hardship.

Regulation 2(1)(a), (b) and (d) omits provisions in the Income Support (General) Regulations (Northern Ireland) 1987 ("the 1987 Regulations"), the Jobseeker's Allowance Regulations (Northern Ireland) 1996 ("the 1996 Regulations"), and the Employment and Support Allowance Regulations (Northern Ireland) 2008 ("the 2008 Regulations") to give effect to this abolition. Regulation 2(2), (3) and (4) provide for transitional arrangements and savings for certain beneficiaries who are in receipt of an urgent case payment on the day before the day on which these Regulations come into operation. Regulation 3(1), (2), (3) and (4) makes consequential amendments to the 1987 Regulations, the 1996 Regulations and the 2008 Regulations. Regulations 2(1)(c) and 3(5) amend provisions in the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 concerning the circumstances in which persons who are subject to immigration control are eligible to be awarded income support, income-based jobseeker's allowance and income-related employment and support allowance.

These Regulations also amend the 1987 Regulations, the 1996 Regulations and the 2008 Regulations so as to omit certain provisions specifying that persons are to be treated as not engaged in remunerative work where—

- (a) they are mentally or physically disabled and are earning 75% or less, or are working 75% or less hours, than a person without the same disability would reasonably be expected to earn, or undertake, in the same, or comparable, employment, or
- (b) they are employed, but are living in, or temporarily absent from, a residential care home, nursing home, Abbeyfield home or independent hospital and need personal care because of old age, disablement, past or present drug or alcohol dependence or mental disorder, or terminal illness.

If a claimant or their partner is in remunerative work, this usually prevents them from being entitled to income support, a jobseeker's allowance or income-related employment and support allowance.

Regulation 4(1) and (2) omits these provisions and a redundant savings provision in the Income Support (General) (Amendment No. 3) Regulations (Northern Ireland) 1991, and regulation 4(3) to (8) makes transitional arrangements and savings in relation to claimants who were entitled to income support, a jobseeker's allowance or an employment and support allowance on the day before the Regulations came into operation or are later determined to be entitled to one of the benefits for a period including the day before the Regulations came into operation, if one of the revoked provisions applies in relation to the claimant's case at the relevant time. Those saving and transitional provisions cease to apply when the claimant first ceases to be entitled to the relevant benefit or first ceases to fall within the particular category of person applicable in his or her case, whichever is the earlier.

Regulation 5 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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(Northern Ireland) 2010

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