

2016 No. 225

SOCIAL SECURITY

**The Social Security (Loss of Benefit) (Amendment) Regulations
(Northern Ireland) 2016**

Made - - - - - *3rd May 2016*

Laid before Parliament *10th May 2016*

Coming into operation - *26th September 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Article 74(3) to (6) of the Social Security (Northern Ireland) Order 1998(a) and sections 5B, 6, 7(4), 8 and 10(1) of the Social Security Fraud Act (Northern Ireland) 2001(b).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(c).

Citation and commencement

1. These Regulations may be cited as the Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2016 and come into operation on 26th September 2016.

Amendment of the Social Security (Loss of Benefit) Regulations

2. The Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002(d) are amended in accordance with regulations 3 to 12.

Amendment of regulation 1(2)

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

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- (a) S.I. 1998/1506 (N.I. 10); *see* section 10(4) of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17 (N.I.)).
- (b) 2001 c. 17 (N.I.); section 5B was inserted by section 19(1) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)) (“the 2010 Act”) and amended by Articles 117 and 118(2) of, and paragraph 47 of Schedule 2 to, the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)) (“the Order”); section 6 was amended by paragraph 33 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 45 of, and paragraph 14 of Schedule 3 to, the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), paragraph 1 of Schedule 3 and Part 3 of Schedule 4 to the 2010 Act and Articles 117(7) and 118 of, and paragraph 48 of Schedule 2 to, the Order; section 7 was amended by section 1(5) of, and paragraph 2 of Schedule 3 and Part 3 of Schedule 4, to the 2010 Act and paragraph 49 of Schedule 2 to the Order; section 8 was amended by paragraph 34 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 14 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, paragraph 3 of Schedule 3 to the 2010 Act and paragraph 50 of Schedule 2 to the Order; section 10(1) was amended by paragraph 5 of Schedule 3 to the 2010 Act.
- (c) S.I. 2015/2006 (N.I. 1).
- (d) S.R. 2002 No. 79; amended by S.R. 2003 No. 28, S.R. 2005 No. 458, S.R. 2005 No. 536, S.R. 2006 No. 407, S.R. 2008 No. 147 (C. 7), S.R. 2008 No. 286, S.R. 2011 No. 291, S.I. 2013/3021 and S.R. 2014 No. 150.

- (a) before the definition of “the Act” insert—
“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007;”(a);
- (b) after the definition of “the Benefits Act” insert—
“the Order” means the Welfare Reform (Northern Ireland) Order 2015;”;
- (c) after the definition of “armed forces independence payment”(b) insert—
“assessment period” has the same meaning as in the UC Regulations;”;
- (d) after the definition of “the determination day”(c) insert—
“the ESA Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2008;”(d);
- (e) after the definition of “the Housing Benefit (State Pension Credit) Regulations”(e) insert—
“income-based jobseeker’s allowance” means an income-based allowance under the Jobseekers Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the Order (to remove references to an income-based allowance);”;
“income-related employment and support allowance” means an income-related allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 12 to the Order (to remove references to an income-related allowance);”;
- (f) after the definition of “the Jobseeker’s Allowance Regulations” insert—
“joint claimant” means each of the “joint claimants” in that definition in Article 46 of the Order;”;
- (g) after the definition of “pay day”(f) insert—
“personal independence payment” means the allowance payable in accordance with Part 5 of the Order;”;
- (h) after the definition of “relevant authority”(g) insert—
“the UC Regulations” means the Universal Credit Regulations (Northern Ireland) 2016;”(h);
“universal credit” means the benefit payable in accordance with Part 2 of the Order.”.

Amendment of regulation 1A

4.—(1) Regulation 1A (disqualification period: section 5B(11) of the Act)(i) is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (2)(a), at the end, insert “other than universal credit or a benefit to which paragraph (5A) applies”.

(3) After paragraph (5) insert—

“(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender’s family member is—

- (a) in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears; and
- (b) not in receipt of any other sanctionable benefit.”.

(a) 2007 c. 2 (N.I.).

(b) Definition inserted by Article 22(2) of S.I. 2013/3021.

(c) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.

(d) S.R. 2008 No. 280.

(e) Definition substituted by paragraph 10(2) of Schedule 2 to S.R. 2006 No. 407.

(f) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.

(g) Definition inserted by regulation 2(2) of S.R. 2011 No. 291.

(h) S.R. 2016 No. 216.

(i) Regulations 1A and 2 substituted by regulation 2(3) of S.R. 2011 No. 291.

(4) In paragraph (6), for “neither paragraph (2) nor paragraph (4) applies” substitute “paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day”.

(5) After paragraph (6) insert—

“(6A) Paragraph (6B) applies where, on the determination day, the offender or, as the case may be, the offender’s family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

- (a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;
- (b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.”.

(6) In paragraph (7)—

- (a) in sub-paragraph (a), after “paragraph (2)” insert “or (6A)”;
- (b) in sub-paragraph (b)—
 - (i) for “that paragraph” substitute “those paragraphs”;
 - (ii) after “paragraph (3)” insert “or (6B)”.

Amendment of regulation 2

5.—(1) Regulation 2 (disqualification period: section 6(6) of the Act) is amended in accordance with paragraphs (2) to (7).

(2) In paragraph (2)(a), at the end, insert “other than universal credit or a benefit to which paragraph (5A) applies”.

(3) After paragraph (5) insert—

“(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender’s family member is—

- (a) in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears; and
- (b) not in receipt of any other sanctionable benefit.”.

(4) In paragraph (6)—

- (a) for “neither paragraph (2) nor paragraph (4) applies” substitute “paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day”;
- (b) in sub-paragraph (c), at the beginning, insert “universal credit.”.

(5) After paragraph (6) insert—

“(6A) Paragraph (6B) applies where on the determination day, the offender or, as the case may be, the offender’s family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

- (a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;
- (b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.”.

(6) In paragraph (7), after “this regulation” insert “but except where paragraph (8) applies”.

(7) After paragraph (7) insert—

“(8) Where the date of the conviction of the offender for the benefit offence in the later proceedings is on or after 26th September 2016 and on the determination day—

- (a) paragraph (2) or (6A) applies in the case of the offender or, as the case may be, the offender’s family member; but

- (b) that person ceases to be in receipt of a benefit referred to in those paragraphs before the first day of the disqualification period that would apply by virtue of paragraph (3) or (6B),

DQ-day is the first day after the end of the period of 28 days beginning with the determination day.”.

Insertion of regulation 2A

6. After regulation 2 insert—

“Prescribed relevant offences under section 5B(14)(b) of the Act

2A.—(1) Paragraph (2) prescribes those offences which are relevant offences for the purposes of sections 5B and 6 of the Act where section 5B(14)(b)(i), (ii) or (iii) of the Act applies.

(2) The offences referred to in paragraph (1) are offences under—

- (a) section 8 of the Accessories and Abettors Act 1861(a);
- (b) Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(b);
- (c) section 1, 3, 4 or 5 of the Forgery and Counterfeiting Act 1981(c);
- (d) section 6 or 7 of the Fraud Act 2006(d);
- (e) section 44, 45 or 46 of the Serious Crime Act 2007(e);
- (f) section 158 of the Administration Act;
- (g) section 327, 328 or 329 of the Proceeds of Crime Act 2002(f);
- (h) section 4, 5 or 6 of the Identity Documents Act 2010(g).

(3) Paragraph (4) prescribes offences which are relevant offences for the purposes of sections 5B and 6 of the Act where section 5B(14)(b)(i) or (ii) of the Act applies.

(4) The offences referred to in paragraph (3) are offences under—

- (a) section 1 of the Fraud Act 2006;
- (b) section 105A of the Administration Act(h);
- (c) section 35 of the Tax Credits Act 2002(i).”.

Amendment of regulation 3 and transitional provision

7.—(1) Regulation 3 (reduction of income support and income-related employment and support allowance)(j) is amended in accordance with paragraphs (2) to (6).

(2) In the heading omit “and income-related employment and support allowance”.

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- (a) 1861 c.94 (24 and 25 Vict); amended by Schedule 12 to the Criminal Law Act 1977 (c. 45).
 - (b) S.I. 1983/1120 (N.I. 13); relevant amending provisions are Schedule 4 to the Trade Union and Labour Relations (Northern Ireland) Order 1995 (S.I.1995/1980 (N.I. 12)) and paragraph 5 of Schedule 1 and Schedule 2 to the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40).
 - (c) 1981 c. 45; relevant amending provisions are section 88 of the Crime (International Co-operation) Act 2003 (c. 32) and paragraph 67 of Schedule 27 to the Civil Partnership Act 2004 (c. 33).
 - (d) 2006 c. 35.
 - (e) 2007 c. 27.
 - (f) 2002 c. 29; sections 327 to 329 were amended by sections 102 and 103 of the Serious Organised Crime and Police Act 2005 (c. 15).
 - (g) 2010 c. 40.
 - (h) Section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and amended by paragraph 5 of Schedule 6 and Part V of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and sections 15(1) of, and the Schedule to, the Social Security Fraud Act (Northern Ireland) 2001 (c.17 (N.I.)).
 - (i) 2002 c. 21.
 - (j) Regulation 3 was amended by regulation 29(3) of S.R. 2008 No. 286 and regulation 2(4) of S.R. 2011 No. 291.

- (3) In paragraph (1) omit “or income-related employment and support allowance”.
- (4) In paragraph (5) omit “or income-related employment and support allowance”.
- (5) In paragraph (6) omit from “or, as the case may be” to the end.
- (6) The amendments made by this regulation do not apply—
 - (a) in relation to a person whose payment of income-related employment and support allowance was being reduced in accordance with regulation 3 of the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 on 26th September 2016; or
 - (b) where the offence, in respect of which income-related employment and support allowance falls to be reduced, was committed before 26th September 2016.

Insertion of regulations 3ZA and 3ZB

8. After regulation 3 insert—

“Reduction of income-related employment and support allowance

3ZA.—(1) Subject to paragraphs (4) and (5), any payment of an income-related employment and support allowance which falls to be made to an offender in respect of any week in the disqualification period or to an offender’s family member in respect of any week in the relevant period is to be reduced in accordance with paragraph (2).

(2) The amount of the reduction is to be—

- (a) where the offender or, as the case may be, the offender’s family member, is pregnant or seriously ill, a sum equivalent to 20 per cent.;
- (b) where the offender or, as the case may be, the offender’s family member is subject to no work-related requirements for the purpose of section 11D of the 2007 Act^(a), a sum equivalent to 40 per cent.;
- (c) in any other case, a sum equivalent to 100 per cent.,

of the applicable amount for a single claimant specified in paragraph 1(1) of Schedule 4 to the ESA Regulations on the day specified in paragraph (3).

(3) The specified day is—

- (a) where a payment to the offender falls to be reduced, on the first day of the disqualification period; or
- (b) where a payment to the offender’s family member falls to be reduced, on the first day of the relevant period.

(4) Payment must not be reduced under paragraph (2) to less than 10 pence per week.

(5) A reduction under paragraph (2) must, if it is not a multiple of 5 pence, be rounded to the nearest such multiple or, if it is a multiple of 2.5 pence but not of 5 pence, to the next lower multiple of 5 pence.

(6) Where the rate of an income-related employment and support allowance payable to an offender or an offender’s family member changes, the rules set out in paragraphs (1) to (5) for a reduction in the allowance payable are to be applied to the new rate and any adjustment to the reduction shall take effect from the first day of the first benefit week to start after the date of change.

(7) In paragraph (6), “benefit week” has the same meaning as in regulation 2(1) of the ESA Regulations.

(a) Section 11D was inserted by Article 63(2) of the Welfare Reform (Northern Ireland) Order 2015 (N.I. 1).

Reduction of universal credit

3ZB.—(1) Any payment of universal credit which falls to be made to an offender or an offender’s family member (“O”) in respect of an assessment period wholly or partly within a disqualification period is to be reduced in accordance with paragraph (2) or (5).

(2) Except where paragraph (5) applies and subject to paragraphs (6) and (7), the amount of the reduction is to be calculated by multiplying the daily reduction rate by the number of days in the assessment period or, if lower, the number of days in the assessment period to which the reduction is to relate.

(3) The daily reduction rate for the purposes of paragraph (2) is, unless paragraph (4) applies, an amount equal to the amount of the standard allowance applicable to the award multiplied by 12 and divided by 365.

(4) The daily reduction rate for the purposes of paragraph (2) is 40 per cent. of the rate calculated in accordance with paragraph (3) if, at the end of the assessment period—

- (a) O, or where O is a joint claimant, the other joint claimant (“J”), falls within Article 24 of the Order (claimants subject to no work-related requirements) by virtue of—
 - (i) Article 24(2)(c) of that Order (responsible carer for a child under the age of one); or
 - (ii) regulation 88(1)(c), (d) or (f) of the UC Regulations (adopter, claimants within 11 weeks before, or 15 weeks after, confinement or responsible foster parent of a child under the age of one); or
- (b) O or, as the case may be, O or J, falls within Article 25 of the Order (claimants subject to work-focused interview requirement only).

(5) Where the disqualification period ends during an assessment period, the amount of the reduction for that assessment period is to be calculated by multiplying the daily reduction rate under paragraph (3) or, as the case may be, paragraph (4) by the number of days in that assessment period which are within the disqualification period.

(6) The amount of the daily reduction rate in paragraphs (3) and (4) is to be rounded down to the nearest 10 pence.

(7) The amount of the reduction under paragraph (2) in respect of any assessment period must not exceed the amount of the standard allowance which is applicable to O in respect of that period.

(8) Where the rate of universal credit payable to O or, as the case may be, O and J, changes, the rules set out in paragraphs (1) to (7) for a reduction in the universal credit payable are to be applied to the new rate and any adjustment to the reduction is to take effect from the first day of the first assessment period to start after the date of the change.

(9) In the case of joint claimants—

- (a) each joint claimant is considered individually for the purpose of determining the rate applicable under paragraph (3) or (4); and
- (b) half of any applicable rate is applied to each joint claimant accordingly.

(10) In this regulation, “standard allowance” means the allowance of that name, the amount of which is set out in regulation 38 of the UC Regulations.”.

Amendment of regulation 3A

9. In regulation 3A(7)(b) (reduction in state pension credit)(a), for “aged 16 or over who is treated as a child for the purposes of section 138” substitute “who is a qualifying young person for the purposes of section 138(2)”(b).

(a) Regulation 3A was inserted by regulation 25(3) of S.R. 2003 No. 28.

(b) Section 138(2) was substituted by section 2(2) of the Child Benefit Act 2005 (c. 6).

Amendment of regulation 5

10.—(1) Regulation 5 (meaning of “person in hardship”)(a) is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1)(h)—

- (a) in paragraph (i) for “or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act” substitute “, the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with Article 83 of the Order”;
- (b) in paragraph (ii) for “or disability living allowance” substitute “, disability living allowance or personal independence payment”;
- (c) at the end of paragraph (iia) omit “or”;
- (d) after paragraph (iii) insert—

“or

- (iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with Article 83 of the Order for a period commencing after the date on which that claim was made.”.

(3) In paragraph (3)(b) for the words from “, 19A or 21” to the end substitute—

“or 19A of the Jobseekers Order (attendance, information and evidence) or that it be reduced pursuant to Article 21, 21A or 21B of that Order (circumstances in which a jobseeker’s allowance is reduced)”(b).

(4) After paragraph (6) insert—

“(7) References in the preceding paragraphs to a jobseeker’s allowance are to an income-based jobseeker’s allowance.”.

Amendment of regulation 11

11. In regulation 11(2)(e) (application of Part and meaning of “couple in hardship”)(c)—

- (a) in paragraph (i) for “or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act” substitute “, the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with Article 83 of the Order”;
- (b) in paragraph (ii) for “or disability living allowance” substitute “, disability living allowance or personal independence payment”;
- (c) at the end of paragraph (iia) omit “or”;
- (d) after paragraph (iii) insert—

“or

- (iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with Article 83 of the Order for a period commencing after the date on which that claim was made.”.

(a) Relevant amending provisions are regulation 11(2) of S.R. 2005 No.458, paragraph 28(2) of Schedule 3 to S.R. 2005 No. 536, regulation 2(5) of S.R. 2011 No. 291, Article 22(3) of S.I. 2013/3021 and regulation 17(3) of S.R. 2010 No. 150.

(b) Article 21 was substituted by Article 52 of the Welfare Reform (Northern Ireland) Order 2015 (N.I. 1).

(c) Amended by Article 22(4) of S.I. 2013/3021.

Insertion of Parts IVA and IVB

12. After regulation 16 insert—

“Part IVA

Hardship: Income-related employment and support allowance

Payment of income-related employment and support allowance to specified persons

16A.—(1) Subject to regulation 16B, an income-related employment and support allowance is payable in accordance with this Part to an offender or an offender’s family member (“O”) where—

- (a) O meets the conditions for entitlement to that allowance;
- (b) the amount of the allowance otherwise payable to O is subject to a reduction under regulation 3ZA or regulation 63 of the ESA Regulations; and
- (c) the Department is satisfied that O, their partner or a child or qualifying young person for whom they are responsible, will be in hardship unless such a payment is made.

(2) The Department must take the following matters into account in determining whether a person is in hardship for the purpose of paragraph (1)(c)—

- (a) whether O’s partner or a person in O’s family satisfies the requirements for a disability premium specified in paragraphs 6 and 7 of Schedule 4 to the ESA Regulations, or for an element of child tax credit in respect of a child or young person who is disabled or severely disabled within the meaning of regulation 8 of the Child Tax Credit Regulations 2002(a);
- (b) the household’s available resources without a payment under paragraph (1), including resources from persons who are not members of the household;
- (c) the difference between the available resources and the amount of a payment under paragraph (1) that O would receive;
- (d) whether there is a substantial risk that the household will not have access to essential items (including food, clothing, heating, and accommodation), or will have access to such essential items at considerably reduced levels, without a payment under paragraph (1); and
- (e) the length of time that the factors set out in sub-paragraphs (b) to (d) are likely to continue.

(3) In paragraphs (1) and (2), “partner”, “child” and “qualifying young person” have the same meaning as they have in the ESA Regulations.

Requirements for payments under regulation 16A(1)

16B. The Department must not make a payment under regulation 16A(1) unless O—

- (a) completes and submits an application in a form approved for the purpose by the Department, or in such other form as the Department accepts as sufficient, in such manner as the Department determines; and
- (b) provides such information or evidence relating to the matters specified in regulation 16A(2)(b) to (d) as the Department may require, in such manner as the Department determines.

(a) S.I. 2002/2007; relevant amending provisions are S.I. 2010/751, S.I. 2013/591 and S.I. 2014/2924.

Amount of payment under regulation 16A(1)

16C.—(1) The amount of a payment under regulation 16A(1) is 60 per cent. of the amount for a single claimant as set out in paragraph 1(1)(a) of Part 1 of Schedule 4 to the ESA Regulations.

(2) A payment calculated in accordance with paragraph (1) is to be, if it is not a multiple of 5 pence, rounded to the nearest such multiple or, if it is a multiple of 2.5 pence but not of 5 pence, to the next lower multiple of 5 pence.

PART IVB

Hardship: Universal Credit

Payment of universal credit to specified persons

16D.—(1) Subject to regulation 16E, universal credit is payable in accordance with this Part to an offender or an offender’s family member (“O”) or where O is a joint claimant, to O and the other joint claimant (“J”), where the Department is satisfied that they are in hardship.

(2) For the purposes of paragraph (1), O or, as the case may be, O and J must be considered as being in hardship only where—

- (a) they meet the conditions for entitlement to universal credit;
- (b) they cannot meet their immediate and most basic and essential needs, specified in paragraph (3), or the immediate and most basic and essential needs of a child or qualifying young person for whom O is, or O and J are, responsible only because the amount of their award has been reduced under—
 - (i) Article 31 or 32 of the Order by the daily reduction rate determined in accordance with regulation 108 of the UC Regulations; or
 - (ii) regulation 3ZB by the daily reduction rate determined in accordance with paragraph (3) or (4) of that regulation;
- (c) they have made every effort to access alternative sources of support to meet, or partially meet, such needs; and
- (d) they have made every effort to cease to incur any expenditure which does not relate to such needs.

(3) The needs referred to in paragraph (2) are—

- (a) accommodation;
- (b) heating;
- (c) food;
- (d) hygiene.

(4) In paragraph (2)(b), “child” and “qualifying young person” have the same meaning as in Part 2 of the Order^(a) and whether or not O is, or O and J are, responsible for a child or qualifying young person is to be determined in accordance with regulation 4 of the UC Regulations.

Requirements for payments under regulation 16D(1)

16E. The Department must not make a payment under regulation 16D(1) unless—

- (a) O completes and submits or, as the case may be, O and J complete and submit, an application in a form approved for the purpose by the Department, or in such other

(a) See Article 46 of Welfare Reform (Northern Ireland) Order 2015 (N.I. 1).

form as the Department accepts as sufficient, in such manner as the Department determines;

- (b) O furnishes or, as the case may be, O and J furnish, such information or evidence relating to the matters specified in regulation 16D(2)(b) to (d) as the Department may require, in such manner as the Department determines; and
- (c) O accepts or, as the case may be, O and J accept, that any such payments that are paid are recoverable and may be recovered in accordance with section 69ZH of the Administration Act(a), except in such cases as the Department determines otherwise.

Period in respect of which payments under regulation 16D(1) are to be made

16F. A payment under regulation 16D(1) is to be made in respect of—

- (a) a period which—
 - (i) begins with the date on which the application under regulation 16E(a) is submitted or, if later, the date on which all of the conditions in regulation 16D(2) are met; and
 - (ii) ends with the day before the date on which O's, or as the case may be, O and J's next full payment of universal credit for an assessment period is due to be made (or would be made but for a reduction under regulation 3ZB); or
- (b) where the period calculated in accordance with paragraph (a) is 7 days or less, that period plus a further period ending with the day referred to in paragraph (a)(ii) or, if sooner, the last day in respect of which O's, or as the case may be, O and J's award is reduced in accordance with regulation 3ZB.

The amount of payments under regulation 16D(1)

16G. The amount of a payment under regulation 16D(1) for each day in respect of which such a payment is to be made is to be determined in accordance with the formula—

$$60\% \text{ of } \left(\frac{A \times 12}{365} \right)$$

where A is equal to the amount of the reduction in the amount of O's award or, as the case may be, the amount of O and J's award, calculated under regulation 3ZB for the assessment period preceding the assessment period in which an application is submitted under regulation 16E(a).

Recoverability of payments made under regulation 16D(1)

16H. Payments made under regulation 16D(1) are recoverable by virtue of section 69ZH of the Administration Act as if they were hardship payments under regulation 111 of the UC Regulations and for this purpose, regulation 114 of those Regulations applies to payments under regulation 16D(1) as it applies to such hardship payments.”.

Signed by authority of the Secretary of State for Work and Pensions.

3rd May 2016

Priti Patel
Minister of State,
Department for Work and Pensions

(a) 1992 c. 8; section 69ZH was inserted by section 109(1) of the Welfare Reform (Northern Ireland) Order 2015 (N.I.1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 (S.R. 2002 No.79) (“the 2002 Regulations”).

The 2002 Regulations prescribe the rules which relate to the restrictions in payment of certain benefits (the loss of benefit) provided for in sections 5B to 12 of the Social Security Fraud Act (Northern Ireland) 2001 (2001 c. 17 (N.I.)) (“the Fraud Act”). The rules apply to payments of certain benefits to persons who have been convicted of one or more benefit offences in any proceedings, have agreed to pay an administrative penalty for a benefit offence, or have been cautioned for a benefit offence (“offenders”). The rules also apply to payments of benefit to members of offenders’ families.

These Regulations are made in connection with amendments made to the Fraud Act by the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) (“the Order”).

These Regulations make provision as to how the loss of benefit regime applies to universal credit, which is introduced by Part 2 of the Order. The Regulations make provision for the start date of the disqualification period where universal credit is the benefit (regulations 4(2), (5) and (6) and 5(2), (4)(b) and (5)). Regulation 8 inserts regulation 3ZB which provides for the amount of the reduction of universal credit. Regulation 12 inserts Part IVB which provides for entitlement to, and the calculation and recoverability of, hardship payments where universal credit is reduced.

These Regulations also make other amendments to the 2002 Regulations.

Regulations 4(2), (3) and (4) and 5(2), (3) and (4)(a) make provision for the start date of the disqualification period where the offender or the offender’s family member is in receipt of a sanctionable benefit which is payable neither wholly in advance nor wholly in arrears (and is not in receipt of any other sanctionable benefit).

Regulation 6 prescribes offences for the purposes of sections 5B and 6 of the Fraud Act, conviction of which will result in a 3 year loss of benefit penalty where one or more of the conditions specified in section 5B(14)(b) of that Act is also satisfied. The conditions are that a court has found that there was an overpayment of at least £50,000 in relation to the offence, the offence has been punished by a custodial sentence of at least one year (including a suspended sentence) or, in the case of certain offences, the court has found that the offence was committed over a period of at least two years.

Regulation 8 inserts regulation 3ZA which replaces existing provision reducing the amount of employment and support allowance payable. Regulation 7 makes related consequential and transitional amendments.

Regulation 9 updates a reference in regulation 3A(7) of the 2002 Regulations to persons over the age of 16 in respect of whom child benefit is payable.

Regulations 10(2) and 11 make amendments consequential on the introduction of personal independence payment. Regulation 10(3) and (4) makes amendments consequential on changes in relation to sanctions in jobseeker’s allowance made by the Order.

Regulation 12 inserts Part IVB which allows an income-related employment and support allowance to be payable to an offender or an offender’s family member at a reduced rate where otherwise it would not be payable by operation of the Fraud Act.

An assessment of the impact of this instrument has been carried out. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on www.legislation.gov.uk.

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