

2016 No. 393

SOCIAL SECURITY

**The Social Security (Great Britain Reciprocal Arrangements)
(Amendment) Regulations (Northern Ireland) 2016**

Made - - - - *4th November 2016*

Coming into operation in accordance with Regulation 1(2)

The Department for Communities, being the Northern Ireland Department responsible for social security, makes the following Regulations in exercise of the powers conferred by section 87(5), (6) and (10) of the Northern Ireland Act 1998(a) and section 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b), and now vested in it(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Great Britain Reciprocal Arrangements) (Amendment) Regulations (Northern Ireland) 2016.

(2) These Regulations shall come into operation—

- (a) for the purposes of income-based jobseeker's allowance and contributory employment and support allowance, on 27th November 2016;
- (b) for all other purposes, on 6th April 2017.

(3) In these Regulations—

- (a) “the Principal Arrangements” means the arrangements contained in the Memorandum of Reciprocal Arrangements set out in the Schedule to the Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 2016(d);
- (b) “contributory employment and support allowance” has the meaning given by section 1(7) of the Welfare Reform Act 2007(e) and section 1(7) of the Welfare Reform Act (Northern Ireland) 2007(f);
- (c) “income-based jobseeker's allowance” has the meaning given by the Jobseekers Act 1995(g) and the Jobseekers (Northern Ireland) Order 1995(h).

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- (a) 1998 c.47; section 87(6) was amended by Article 2 of the Northern Ireland Act 1998 (Modification) Order 2000 (S.I. 2000/741), Article 2 of the Northern Ireland Act 1998 (Modification) Order 2008 (S.I. 2008/1242) and Article 2 of the Northern Ireland Act 1998 (Modification) Order 2016 (S.I. 2016/160). Other amendments to section 87 are not relevant to these Regulations
 - (b) 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) and section 18(5) of the National Insurance Contributions Act 2014 (c.7)
 - (c) See Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))
 - (d) S.R. 2016 No. 149
 - (e) 2007 c.5
 - (f) 2007 c.2 (N.I.)
 - (g) 1995 c.18
 - (h) S.I 1995/2705 (N.I. 15)

Adaptation of Legislation

2.—(1) The provisions contained in the exchange of letters set out in the Schedule to these Regulations shall have effect so far as they relate to Northern Ireland, and the effect of the Principal Arrangements shall be varied in accordance with those provisions.

(2) The following legislation, and any subordinate legislation made or having effect as if made under that legislation, so far as it relates to Northern Ireland, shall have effect subject to such adaptations as may be required for the purpose of giving effect to the provisions of the Principal Arrangements as amended by the provisions contained in the exchange of letters set out in the Schedule to these Regulations—

- (a) the Social Security Contributions and Benefits (Northern Ireland) Act 1992**(a)**;
- (b) the Social Security Administration (Northern Ireland) Act 1992;
- (c) the Jobseekers (Northern Ireland) Order 1995;
- (d) Chapter 2 (social security decisions and appeals) of Part 2 (decisions and appeals) of the Social Security (Northern Ireland) Order 1998**(b)**;
- (e) Part 1 (employment and support allowance) of the Welfare Reform Act (Northern Ireland) 2007**(c)**
- (f) Part 5 (bereavement support payment) of the Pensions Act (Northern Ireland) 2015**(d)**.

Sealed with the Official Seal of the Department for Communities on 4th November 2016

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

(a) 1992 c.7
(b) S.I. 1998/1506 (N.I. 10)
(c) 2007 c.2 (N.I.)
(d) 2015 c.5 (N.I.)

SCHEDULE

Regulation 2(1)

No.1

The Minister of State for Employment, with the consent of the Treasury, to the Minister for Communities for Northern Ireland

27th October 2016

Sir,

I refer to the Memorandum of Reciprocal Arrangements relating to social security between the Secretary of State for Work and Pensions, with the consent of the Treasury, of the one part and the Minister for Social Development (being the Northern Ireland Minister having responsibility for social security), with the consent of the Department of Finance and Personnel, of the other part, which came into force on 6th April 2016 (which in this letter is referred to as "the Memorandum").

I propose, with the consent of the Treasury, the following amendments to the Memorandum.

In Article 1(1), in the definition of "legislation"—

1. in paragraph (a)—

(a) in sub-paragraph (iii) omit the words " , except in relation to an income-based jobseeker's allowance, which has the meaning given by section 1(4) (the jobseeker's allowance) of that Act";

(b) after sub-paragraph (viii) insert—

"(ix) Part 5 (bereavement support payment) of the Pensions Act 2014;";

2. in paragraph (b)—

(a) in sub-paragraph (iii) omit the words " , except in relation to an income-based jobseeker's allowance, which has the meaning given by Article 3(4) (the jobseeker's allowance) of that Order";

(b) after sub-paragraph (viii) insert—

"(ix) Part 5 (bereavement support payment) of the Pensions Act (Northern Ireland) 2015;".

After Article 2, insert—

"2A. Article 2B applies to a claimant who—

(a) was entitled to an award of employment and support allowance under Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007 following a decision made by a determining authority in Great Britain or Northern Ireland;

(b) moved from one territory to the other and, owing to the lack of arrangements as provided for in section 87(2) of the Northern Ireland Act 1998 in relation to employment and support allowance for any period before 6th April 2016, had their entitlement terminated as a consequence of that move;

(c) does not satisfy the conditions set out in whichever of the following applies in the new territory—

(i) Part 1 (contributory allowance) of Schedule 1 (employment and support allowance: additional conditions) to the Welfare Reform Act 2007; or

- (ii) Part 1 (contributory allowance) of Schedule 1 (employment and support allowance: additional conditions) to the Welfare Reform Act (Northern Ireland) 2007;
- (d) on 27th November 2016 satisfies the basic conditions of entitlement in section 1(3) of the Welfare Reform Act 2007 or section 1(3) of the Welfare Reform Act (Northern Ireland) 2007; and
- (e) up to and including 26th November 2016 is being paid a weekly sum equivalent to their entitlement referred to under paragraph (a) on an extra-statutory basis.

2B. A claimant to whom this Article applies is, for the purposes of entitlement to an employment and support allowance—

- (a) to be treated as having made a claim for an employment and support allowance on 27th November 2016;
- (b) to be treated as satisfying the conditions set out in Part 1 of Schedule 1 to the Welfare Reform Act 2007 or Part 1 of Schedule 1 to the Welfare Reform Act (Northern Ireland) 2007 in respect of the claim; and
- (c) to have the period of limited capability for work in relation to the award referred to in Article 2A(a) treated as one continuous period with the period of limited capability for work in relation to the claim.”.

I suggest that if these proposals are acceptable to you, this letter and your reply shall constitute arrangements between us that shall enter into force on 27th November 2016 in respect of the inclusion of income-based jobseeker’s allowance and contributory employment and support allowance, and 6th April 2017 in respect of the inclusion of bereavement support payment.

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

27th October 2016

Damian Hinds
Minister of State for Employment
Department for Work and Pensions

I consent.

27th October 2016

Guto Bebb
One of the Lords Commissioners of Her Majesty’s Treasury

No.2

The Minister for Communities for Northern Ireland, with the consent of the Department of Finance, to the Minister of State for Employment

27th October 2016

Sir,

I refer to your letter of 27th October 2016 referring to the Memorandum of Reciprocal Arrangements relating to social security between the Secretary of State for Work and Pensions, with the consent of the Treasury, of the one part and the Minister for Social Development (being

the Northern Ireland Minister having responsibility for social security), with the consent of the Department of Finance and Personnel, of the other part, which came into force on 6th April 2016.

I accept, with the consent of the Department of Finance, your proposals made with the consent of the Treasury, and agree that your letter and this reply shall constitute arrangements between us that shall enter into force on 27th November 2016 in respect of the inclusion of income-based jobseeker's allowance and contributory employment and support allowance, and 6th April 2017 in respect of the inclusion of bereavement support payment.

Paul Givan
Minister for Communities for Northern Ireland

27th October 2016

The Department of Finance hereby consents.

Emer Morelli
A senior officer for the Department of Finance

27th October 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in Northern Ireland to reciprocal arrangements between Great Britain and Northern Ireland relating to social security. The arrangements are made between the Minister of State for Employment on behalf of the Secretary of State for Work and Pensions, with the consent of the Treasury, of the one part and the Minister for Communities in Northern Ireland, with the consent of the Department of Finance, of the other part. These arrangements are contained in the exchange of letters set out in the Schedule to these Regulations.

The arrangements amend earlier reciprocal arrangements contained in the Memorandum of Reciprocal Arrangements set out in the Schedule to the Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 2016 (“the Principal Arrangements”) in order to include in their scope—

Part 5 of the Pensions Act 2014 and Part 5 of the Pensions Act (Northern Ireland) 2015 which introduce throughout the United Kingdom a new benefit known as bereavement support payment. The earlier reciprocal arrangements help secure a single system of social security for the United Kingdom. So, for example, a claim to, or award of, bereavement support payment in one territory shall be treated as a claim to, or award of, that benefit in the other territory, and

income-based jobseeker’s allowance. This is necessary in order to align the treatment of jobseeker’s allowance with that of employment and support allowance. Both types of employment and support allowance, income-related and contributory, are included in the scope of the Principal Arrangements.

The arrangements also contain provisions relating to extra-statutory payments being made to contributory employment and support allowance claimants who moved between the two territories before 6th April 2016. Before 6th April 2016, employment and support allowance was not included in the Principal Arrangements. These payments shall be converted into statutory awards of contributory employment and support allowance in the new territory without the need for a claim.

The Regulations provide that the legislation referred to in regulation 2(2) is adapted to give effect to the provisions of the Principal Arrangements as amended by the provisions set out in the Schedule to these Regulations.

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