

2021 No. 105

SOCIAL SECURITY

**The Social Security (Coronavirus) (Miscellaneous Amendments)
Regulations (Northern Ireland) 2021**

Made - - - - *20th April 2021*

Coming into operation - *12th May 2021*

The Department for Communities(a), makes the following Regulations in exercise of the powers conferred by sections 70(8), 122(1)(a) and (d), 123, 129, 131(1), 133(2)(h) and (l), 167D and 171(1) and (3) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), Articles 6(5) and (12), 8(4), 9(4), and 36(2) of, and paragraph 12 of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995(c) and now vested in it(d) and sections 2(3), (4), (6) and (9), 3(8), 17(2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(e), sections 4(2) and (3), 24(1) and 25(2) of, and paragraph 6(8) of Schedule 1 and paragraphs 1(a) and 2 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(f) and Articles 7(2), 11(1) and 48(1) and (2) of, and paragraph 5(1) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015(g).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Coronavirus) (Miscellaneous Amendments) Regulations (Northern Ireland) 2021 and come into operation on 12th May 2021.

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

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- (a) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
- (b) 1992 c. 7. Section 167D was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)). Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (c) S.I. 1995/2705 (N.I. 15). Articles 8 and 9 are maintained in operation in certain circumstances by Article 9 of S.R. 2017 No. 190
- (d) Functions previously discharged by the Department of Health and Social Services were transferred to the Department for Social Development in accordance with Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016
- (e) 2002 c.14 (N.I.)
- (f) 2007 c. 2 (N.I.). Sections 2 and 4 were repealed for certain purposes by the Welfare Reform (Northern Ireland) Order 2015
- (g) S.I. 2015/2006 (N.I. 1)
- (h) 1954 c.33 (N.I.)

Amendment of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations

2. In regulation 5(2) of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020(a) (expiry) for “14 months” substitute “20 months”.

Amendment of the Social Security (Coronavirus) (Further Measures) Regulations

3. In regulation 10(2B) of the Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland) 2020(b) (expiry) for “12th May 2021” substitute “31st August 2021”.

Amendment of the Social Security (Coronavirus) (Prisoners) Regulations

4.—(1) The Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland) 2020(c) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1 (citation, commencement and interpretation) after paragraph (1) insert—

“(1A) In these regulations “coronavirus disease” means COVID-19 (the official designation of the disease which can be caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)).”.

(3) At the beginning of each of the provisions in paragraph (4) insert “Where the Department is satisfied that it is expedient as a result of coronavirus disease and in such cases as the Department determines”.

(4) For the purposes of paragraph (3) the provisions are—

- (a) paragraph (1) of regulation 2;
- (b) regulation 3; and
- (c) regulation 4.

(5) In regulation 5 (housing benefit – modification of the rule on whether a person is or is not to be treated as occupying a dwelling as their home) after “For the purposes of entitlement to housing benefit,” insert “where the Department is satisfied that it is expedient as a result of coronavirus disease and in such cases as the Department determines,”.

(6) In regulation 6(2) (expiry) for “at the end of the period of 14 months beginning on and including 13th March 2020” substitute “on 31st August 2021”.

Sealed with the Official Seal of the Department for Communities on 20th April 2021

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

(a) S.R. 2020 No. 33. Regulations 3 and 4 ceased to have effect for the purposes of Universal Credit from 30th March 2020 by virtue of S.R. 2020 No. 53. Regulation 5(2) was amended by regulation 2 of S.R. 2020 No. 217
(b) S.R. 2020 No. 53. Regulation 10(2B) was inserted by regulation 2(b) of S.R. 2020 No 242
(c) S.R. 2020 No. 63. Regulation 6(2) was amended by regulation 2 of S.R. 2020 No. 227

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020, the Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland) 2020 (“the Further Measures Regulations”) and the Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland) 2020 in response to the continuing outbreak of coronavirus disease in Northern Ireland.

Regulation 2 of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020 gives the Department discretion to disapply the seven waiting days that would otherwise apply to a person who has made a claim for an employment and support allowance. Regulation 3 of those Regulations gives the Department discretion to decide that a person who makes a claim for, or is entitled to, an employment and support allowance may be treated as a person having limited capability for work. Both provisions apply where a person is infected or contaminated with coronavirus disease, is isolating to prevent the spread of coronavirus disease, or is caring for a child (or qualifying young person) who falls into either of those categories. Both provisions no longer have effect in relation to Universal Credit by virtue of the Further Measures Regulations.

Following a review by the Department of the operation of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020, regulation 2 amends the provision by which those Regulations expire after 14 months so that they now expire after 20 months beginning on 13th March 2020, namely 12th November 2021.

Regulation 8 of the Further Measures Regulations enables any period during which a person is infected or contaminated with coronavirus disease, in isolation or caring for a child or qualifying young person in their household who is so infected or contaminated or is in isolation, to not be counted towards a period of sickness under regulation 55 or 55ZA of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198) or regulation 45 or 46 of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016 (S.R. 2016 No. 218). This means that a person will not lose entitlement to jobseeker’s allowance because of coronavirus disease. Regulation 9 of the Further Measures Regulations allows carers to retain their entitlement to carer’s allowance if they have a temporary break in caring as a result of isolation due to, or infection or contamination with, coronavirus disease of either the carer or the person cared for.

Following a review by the Department of the operation of the Further Measures Regulations, regulation 3 amends the provision by which the Further Measures Regulations expire on 12th May 2021 so that regulations 8 and 9 now expire on 31st August 2021.

The Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland) 2020 made provision to enable individuals on temporary release from prison to access means tested benefits during the period of that release.

Following a review by the Department of the operation of the Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland) 2020, regulation 4 amends the provision by which those Regulations expire after 14 months so that they now expire on 31st August 2021. Regulation 4 also requires the Department to now determine whether the easements for a prisoner on temporary release should be applied in any individual case. As the need to manage the potential impacts of coronavirus within the prison estate will hopefully reduce in the coming months prisoners may be temporarily released for non-coronavirus related reasons, but the easement was never intended to enable such prisoners to access means-tested benefits since their living costs are already met.

These Regulations made in relation to Northern Ireland only provision correspond to provisions 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 (c. 8), 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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