

2008 No. 179

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments No. 2)
Regulations (Northern Ireland) 2008**

Made - - - -

18th April 2008

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)(d), 131(1), 132(3) and (4)(a) and (b), 133(2)(f), (h) and (i) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and Articles 11(6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(b) and now vested in it(c).

Regulations 3 and 4 are made with the consent of the Department of Finance and Personnel(d).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 3 and 4 should not be referred to it(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2008 and, subject to paragraph (2), shall come into operation on 19th May 2008.

(2) Regulation 3(10)(c) shall come into operation on 27th October 2008.

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

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

2. In regulation 7 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(g) (date from which a decision superseded under Article 11 takes effect)—

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- (a) 1992 c. 7; section 129(2) was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002
- (c) See Article 8(b) of S.R. 1999 No. 481
- (d) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481
- (e) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (f) 1954 c. 33 (N.I.)
- (g) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2006 No. 365 and S.R. 2007 No. 392

- (a) in paragraph (2)—
 - (i) in sub-paragraph (bc)(a) for “subject to sub-paragraph (bd),” substitute “subject to paragraph (2A),” and
 - (ii) omit sub-paragraph (bd)(b); and
- (b) after paragraph (2) insert—

“(2A) Paragraph (2)(bc) shall only apply to the disabled person whose benefit is affected by the cessation of payment of carer’s allowance.”.

Amendment of the Housing Benefit Regulations

3.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(c) are amended in accordance with paragraphs (2) to (11).

(2) In regulation 7(8)(c)(ii)(d) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) omit “9, 10, 11,”.

(3) In regulation 25(11) (treatment of child care charges)—

- (a) for sub-paragraph (a) substitute—

“(a) the claimant’s applicable amount includes a disability premium on account of the other member’s incapacity;” and
- (b) in sub-paragraph (b) omit “or a higher pensioner premium”.

(4) In regulation 39(e) (notional income) omit paragraphs (3) to (5).

(5) In regulation 50(1) (students: interpretation)—

- (a) for the definition of “sandwich course” substitute—

““sandwich course” has the meaning prescribed in regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007(f), regulation 2(9) of the Education (Student Support) Regulations 2008(g) or regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(h), as the case may be;” and
- (b) in the definition of “student loan” for “Students’ Allowances (Scotland) Regulations 1999” substitute “Students’ Allowances (Scotland) Regulations 2007(i)”.

(6) In regulation 53(2) (full-time students to be treated as not liable to make payments in respect of a dwelling)—

- (a) in sub-paragraph (c) omit “pensioner premium for persons under 75 or, as the case may be, persons 75 or over, higher pensioner premium;” and
- (b) in sub-paragraph (i)—
 - (i) for head (ii) substitute—

“(ii) an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students’ Allowances (Scotland) Regulations 2007 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority Bursaries (Scotland) Regulations 2007(j), in respect of expenses incurred;” and
 - (ii) for head (iv) substitute—

(a) Sub-paragraph (bc) was inserted by regulation 3(2) of S.R. 2006 No. 365 and amended by regulation 3(4)(a) of S.R. 2007 No. 392

(b) Sub-paragraph (bd) was inserted by regulation 3(4)(b) of S.R. 2007 No. 392

(c) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2007 Nos. 306 and 396 and S.R. 2008 No. 92

(d) Paragraph (8) was amended by regulation 9(3) of S.R. 2007 No. 396

(e) Paragraphs (3) and (3A) were substituted for paragraph (3) by regulation 5(4)(b), and paragraphs (4) and (5) were respectively amended by regulation 5(4)(c) and (d), of S.R. 2007 No. 306

(f) S.R. 2007 No. 195

(g) S.I. 2008/529

(h) S.S.I. 2007/154

(i) S.S.I. 2007/153

(j) S.S.I. 2007/149

“(iv) a grant has been made under regulation 39 of the Education (Student Support) Regulations (Northern Ireland) 2007 or under regulation 37 of the Education (Student Support) Regulations 2008, or”.

(7) In regulation 60(2) (other amounts to be disregarded) for “Students’ Allowances (Scotland) Regulations 1999” substitute “Students’ Allowances (Scotland) Regulations 2007”.

(8) In Schedule 4 (applicable amounts)—

- (a) in paragraph 3(4)(e) omit “9, 10, 11 or”;
- (b) for paragraph 6 substitute—

“6. The following premiums, namely—

- (a) a severe disability premium to which paragraph 14 applies;
- (b) an enhanced disability premium to which paragraph 15 applies;
- (c) a disabled child premium to which paragraph 16 applies; and
- (d) a carer premium to which paragraph 17 applies,

may be applicable in addition to any other premium which may apply under this Schedule.”

- (c) omit paragraphs 9, 10 and 11;
- (d) in paragraph 13—
 - (i) in the heading for “higher pensioner and disability premiums” substitute “disability premium”;
 - (ii) in sub-paragraph (1) for “paragraphs 11 and” substitute “paragraph”;
 - (iii) in sub-paragraph (3) omit “the higher pensioner premium or”;
 - (iv) omit sub-paragraph (4), and
 - (v) in sub-paragraph (8) for “within the meaning of paragraph 11(5)” substitute “(a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(a) applies, and who again becomes incapable of work for the purposes of Part XIIA of the Act(b))”;
- (e) in paragraph 20(c) omit sub-paragraphs (2), (3) and (4).

(9) In Schedule 5 (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 3—
 - (i) for sub-paragraph (3)(a) substitute—

“(a) the claimant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 4; and”, and
 - (ii) omit sub-paragraphs (4) and (5); and
- (b) in paragraph 17(2)(b)(iv)—
 - (i) in paragraph (aa) omit “a higher pensioner premium or”, “11 or” and “respectively”, and
 - (ii) in paragraph (bb) omit “higher pensioner premium or”.

(10) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—

- (a) omit paragraph 19;
- (b) in paragraph 46(1) for “or 11” substitute “or 10”; and
- (c) for paragraph 49 substitute—

(a) S.R. 1995 No. 41; regulation 13A was inserted by regulation 4(2) of S.R. 1998 No. 324 and amended by regulation 2(6) of S.R. 2000 No. 4 and regulation 2(2) of S.R. 2006 No. 150

(b) Part XIIA was inserted by Articles 7 and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(c) The amounts in sub-paragraphs (2), (3) and (4) were amended by Schedule 7 to S.R. 2008 No. 92

“49.—(1) Where a claimant’s applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the claimant’s former partner, or the claimant’s partner’s former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Department in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

49A.—(1) Any payment of child maintenance which is made by the parent of the child or young person except where the person making the payment is the claimant or the claimant’s partner.

(2) In this paragraph, “child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made through or under—

- (a) the Child Support (Northern Ireland) Order 1991(a);
- (b) the Child Support Act 1991(b);
- (c) a court order (including a consent order);
- (d) a minute of agreement as registered for execution in the Books of Council and Session or the sheriff court books,

and for this purpose a “young person” is a person referred to in regulation 17.

(3) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(4) A payment made by the Department in lieu of maintenance shall, for the purposes of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).” .

(11) In paragraph 41(1) of Schedule 7 (capital to be disregarded) for “or 11” substitute “or 10”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

4. In regulation 2(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(c) (interpretation) for the definition of “sandwich course” substitute—

““sandwich course” has the meaning prescribed in regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, regulation 2(9) of the Education (Student Support) Regulations 2008 or regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007, as the case may be;”.

Amendment of the Housing Benefit (Consequential Provisions) Regulations

5. In Schedule 3 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006(d) (transitional and savings provisions) in paragraph 5(2) in regulation 14(3)(b) (restrictions on unreasonable payments) as set out in that paragraph for “purposes of one or more of the provisions” substitute “purpose of Part XIIA”.

(a) S.I. 1991/2628 (N.I. 23)

(b) 1991 c. 48

(c) S.R. 2006 No. 406, to which there are amendments not relevant to these Regulations

(d) S.R. 2006 No. 407

Revocations

6. The following regulations are revoked—

- (a) regulation 5(4)(b), (c) and (d) of the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2007^(a); and
- (b) regulation 3(4) of the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2007^(b).

Sealed with the Official Seal of the Department for Social Development on 18th April 2008

(L.S.)

John O'Neill

A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulations 3 and 4.

Sealed with the Official Seal of the Department of Finance and Personnel on 18th April 2008

(L.S.)

Adrian Arbuthnot

A senior officer of the Department of Finance and Personnel

(a) S.R. 2007 No. 306
(b) S.R. 2007 No. 392

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend:

- the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”);
- the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”);
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit (State Pension Credit) Regulations”); and
- the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006 (“the Consequential Provisions Regulations”).

Regulation 2 amends the Decisions and Appeals Regulations so as to correct the structure of regulation 7(2) of those Regulations.

Regulation 3 amends the Housing Benefit Regulations to:

- omit pensioner premiums and make amendments consequential on this omission, as those who could qualify for such premiums will have their housing benefit calculated under the Housing Benefit (State Pension Credit) Regulations;
- omit provisions relating to income derived from pension schemes or an annuity as those to which those provisions could apply will have their housing benefit calculated under the Housing Benefit (State Pension Credit) Regulations;
- provide for the amount of the child maintenance disregard to be increased from £15 per week to a full disregard;
- update references.

Regulation 4 amends the Housing Benefit (State Pension Credit) Regulations by substituting, with updated references, the definition of “sandwich course”.

Regulation 5 makes a technical amendment to a reference in the Consequential Provisions Regulations.

Regulation 6 makes consequential revocations.

In so far as these Regulations are required, for the purposes of regulations 3 and 4, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they 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, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.