

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS NO. 2) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 377

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Statutory Rule will amend the Income-related Benefit Regulations namely:
 - the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”);
 - the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (the Jobseeker’s Allowance Regulations”); and
 - the Employment and Support Allowance Regulations (Northern Ireland) 2008 (the “Employment and Support Regulations”).

3. Background

- 3.1 Twice a year the Department puts forward a package of miscellaneous and non-controversial amendments to the income-related benefits Regulations.
- 3.2 The main purpose of these Regulations is to correct, clarify, align or update various social security legislation (listed at paragraph 2.1) and further explained at paragraphs 3.3 to 3.10.

Reserve Forces disregard for Income Support Claimants/Partners and income-related Employment and Support Allowance Partners

- 3.3 The Jobseeker’s Allowance (Members of the Reserve Forces) Regulations (Northern Ireland) 2012 which came into operation in July, introduced new provisions into the Jobseeker’s Allowance Regulations to allow Jobseeker’s Allowance claimants who are also members of the reserve forces to be treated as satisfying the requirements to be available for and actively seeking work during their mandatory annual reserve forces training for a period of up to 15 days in any calendar year. They also introduced a new earnings disregard in order to ensure that Jobseeker’s

Allowance entitlement of at least 10p is retained. This in turn means that Housing Benefit is not affected for recipients of income-based Jobseeker's Allowance who take part in annual reserve forces training.

- 3.4 The original change was introduced to make it possible for Jobseeker's Allowance claimants who are also members of the reserve forces to keep their claim open during their mandatory annual reserve forces training period for up to 15 days in any calendar year. This change reduces the administrative burden for both the claimant and the Department and minimises any delays in payment that currently result from requiring reservists to stop claiming benefit during this annual training period and re-claim after its completion; and therefore to remove any disincentive for benefit recipients to participate in the reserve forces.
- 3.5 This new change introduces a similar earnings disregard for Income Support claimants and partners, and for partners of income-related Employment and Support Allowance claimants to ensure equality of treatment for all members of the reserve forces who claim Jobseeker's Allowance or Income Support or who are partners of Jobseeker's Allowance, income-related Employment and Support Allowance or Income Support claimants. This disregard is not being extended to Employment and Support Allowance claimants because generally an Employment and Support Allowance claimant is not entitled to Employment and Support Allowance in any week in which they work even if in a special occupation, such as the reserve forces.

Jobseekers who are also members of the reserve forces undertaking mandatory annual training abroad to be treated as being in Northern Ireland

- 3.6 Occasionally reservists are required to undertake their mandatory annual reserve forces training abroad. The Jobseeker's Allowance Regulations currently provide that Jobseeker's Allowance claimants who are reservists would be required to sign off if their training is abroad, and reclaim benefit on their return.
- 3.7 This is contrary to the original policy intent which was to reduce the administrative burden and minimise any delays in payment that currently result from requiring reservists to re-claim benefit after the completion of mandatory annual 15 day reserve forces training; and therefore to remove any disincentive for benefit recipients to participate in the reserve forces.
- 3.8 These Regulations therefore amend the Jobseeker's Allowance Regulations to ensure that all reservists claiming Jobseeker's Allowance can keep their claim open during the period of their mandatory 15 day reserve forces training, whether that training takes place in Northern Ireland or elsewhere, if they were entitled to Jobseeker's Allowance prior to the absence commencing.

- 3.9 It is not necessary to make a corresponding change to the Income Support and Employment and Support Regulations as rules allowing temporary absence abroad are more flexible in those benefits. Income Support Regulations allow up to four weeks temporary absence in almost all circumstances. The only exceptions apply to people not likely to be eligible for the reserved forces, namely, young people in non-advanced education and people incapable of work due to sickness or disability. There are no restrictions on temporary absence abroad for partners of Employment and Support Allowance claimants.

Attribution of earnings in relation to Jobseeker's Allowance by members of the reserve forces undertaking mandatory annual 15 day reserve forces training

- 3.10 This minor change is to correct a typographical error in the Jobseeker's Allowance (Members of the Reserved Forces) Regulations (Northern Ireland) 2012 which amended the Jobseeker's Allowance Regulations. The Regulations as currently drafted say that where the mandatory annual reserve forces training takes place over more than 14 day, earnings from it should be attributed over 14 days or over a period which is equal to the duration of the training period. The earnings cannot be attributed in both ways and the words 'over a period which is equal to the duration of the training period' were included in error. The additional words are therefore being removed.

4. Consultation

- 4.1 The Social Security Advisory Committee discussed the corresponding Great Britain proposals at their meeting on 15th August 2012 and decided that they did not consider it necessary that the proposed regulations be formally referred.

5. Equality Impact

- 5.1 The changes proposed do not provide a new benefit or service but correct, clarify, align or update various social security Statutory Rules.
- 5.2 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 There are no significant costs to the Department to implement these proposals.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

- (a) is not incompatible with any of the Convention rights,
- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) (No.2) Regulations 2012 (S.I. 2012/2575) and come into force on 5 November 2012. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.