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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 242**

**HOUSING; RATES; SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments  
No. 3) Regulations (Northern Ireland) 2017**

*Made - - - - 20th December 2017*

*Coming into operation in accordance with Article 1(2)*

The Department for Communities<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 123(1)(e), 129A(2), 131(1), 132(3) and (4)(b), 132A(3) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(2)</sup>, sections 5(1)(k) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992<sup>(3)</sup>, Article 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995<sup>(4)</sup>, Articles 11(6) and 74(1) of the Social Security (Northern Ireland) Order 1998<sup>(5)</sup>, and now vested in it<sup>(6)</sup>, and section 59 of, and paragraphs 4(5) and 20(1) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000<sup>(7)</sup>, sections 2(3)(b), 12(2) and (3), 15(3) and (6)(b) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002<sup>(8)</sup>, and section 17(1) and (3)(b) of the Welfare Reform Act (Northern Ireland) 2007<sup>(9)</sup>.

Regulations 6 and 7 are made with the consent of the Department of Finance<sup>(10)</sup>.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2017.

(2) These Regulations come into operation as follows—

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- (1) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))
- (2) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)); and section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21)
- (3) 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)
- (4) S.I. 1995/2705 (N.I. 15)
- (5) 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
- (6) See Article 8(b) of S.R. 1999 No. 481
- (7) 2000 c. 4 (N.I.)
- (8) 2002 c. 14 (N.I.)
- (9) 2007 c. 2 (N.I.)
- (10) 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 and section 1(4) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))

- (a) the following provisions, on 21st December 2017—
  - (i) this regulation;
  - (ii) regulation 2(2) and regulation 2(1) in so far as it relates to that provision;
  - (iii) regulation 5(3) and regulation 5(1) in so far as it relates to that provision; and
  - (iv) regulation 7(2) and (6) and regulation 7(1) in so far as it relates to that provision; and
- (b) all other provisions on 6th December 2018.

(3) The Interpretation Act (Northern Ireland) 1954<sup>(11)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

### **Amendment of the Income Support (General) Regulations**

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987<sup>(12)</sup> are amended in accordance with paragraphs (2) and (3).

(2) After paragraph 7 of Schedule 1B<sup>(13)</sup> (prescribed categories of person) insert—

**“Certain persons in receipt of the daily living component of personal independence payment**

7A. A person who is in receipt of the daily living component of personal independence payment at the enhanced rate but only where, immediately before receiving that benefit, the person was entitled to and in receipt of income support because he or she was treated as incapable of work under regulation 10(2)(a)(i) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995<sup>(14)</sup>.”

(3) In paragraph 17(c) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

### **Amendment of the Jobseeker’s Allowance Regulations**

3. In paragraph 18(c) of Schedule 6 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996<sup>(15)</sup> (sums to be disregarded in the calculation of income other than earnings) after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

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

4. Omit regulation 7(17B)(b) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999<sup>(16)</sup> (date from which superseded decisions take effect).

### **Amendment of the State Pension Credit Regulations**

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003<sup>(17)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In paragraph 14(7) of Schedule 2 (housing costs: persons residing with the claimant)—

- (a) in head (c) omit the words beginning with “during a period of study” to the end; and

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(11) 1954 c. 33 (N.I.)

(12) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1996 No. 199, S.R. 2009 No. 418 and S.R. 2010 No. 345

(13) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 1999. Paragraph 7 was amended by regulations 2(1)(b) and 3(2) (e) of S.R. 2009 No. 418 and regulation 2(2)(a) of S.R. 2010 No. 345

(14) S.R. 1995 No. 41

(15) S.R. 1996 No. 198

(16) S.R. 1999 No. 162. Paragraph (17B) was substituted by regulation 2(a) of S.R. 2004 No. 110

(17) S.R. 2003 No. 28; relevant amending Regulation is S.R. 2003 No. 191

- (b) omit head (cc)(18).
- (3) In paragraph 1 of Schedule 3 (special groups: polygamous marriages)—
  - (a) in sub-paragraph 2(1)(b) of the provision that applies instead of section 3(1)—
    - (i) after “of the Act” insert “has attained pensionable age before 6 April 2016 and”, and
    - (ii) after “age of 65” insert “(before, on or after that date)”; and
  - (b) after sub-paragraph (7) insert—

“(7A) The following provision shall apply instead of regulation 7A (limitation of savings credit for certain mixed-age couples)—

“7A.—(1) This regulation applies if, taking the claimant to be the person in question for the purposes of section 12 (polygamous marriages)—

    - (a) the case is one to which that section applies; and
    - (b) at least one of the persons falling within subsection (1)(c) of that section had attained pensionable age before 6 April 2016 and at least one of those persons had not.

(2) Where this regulation applies, the claimant is not entitled to a savings credit unless the claimant—

    - (a) has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date; and
    - (b) remained entitled to a savings credit at all times since the beginning of 6 April 2016.”.”.
  - (4) In paragraph 10(b) of Schedule 4 (amounts to be disregarded in the calculation of income other than earnings) after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

### **Amendment of the Housing Benefit Regulations**

**6.** In regulation 72(7)(e) of the Housing Benefit Regulations (Northern Ireland) 2006(19) (non-dependant deductions) for “the age of 65” substitute “pensionable age”.

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

- 7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(20) are amended in accordance with paragraphs (2) to (8).
- (2) In regulation 29(11)(ba)(21) (treatment of childcare charges) for the words beginning with “claimant’s” and ending with “would be” substitute “other member of the couple would be a member of the support group or”.
- (3) In regulation 52 (continuing payments where state pension credit claimed)—
  - (a) in paragraph (1)(c)(i)(22) omit the words beginning with “or, if” and ending with “65”; and

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(18) Head (cc) was inserted by regulation 23(7)(c) of [S.R. 2003 No. 191](#)

(19) [S.R. 2006 No. 405](#)

(20) [S.R. 2006 No. 406](#); relevant amending Regulations are [S.R. 2008 No. 378](#), [S.R. 2016 No. 236](#) and [S.R. 2017 No. 51](#)

(21) Sub-paragraph (ba) was inserted by regulation 4(6)(c)(i) of [S.R. 2008 No. 378](#) and amended by regulation 35(4) of [S.R. 2016 No. 236](#) and paragraph 7(3) of Schedule 1 to [S.R. 2017 No. 51](#)

(22) Paragraph (1)(c)(i) was amended by regulation 4(8)(a) of [S.R. 2008 No. 378](#)

- (b) in paragraph (2)(a)(ii)(**23**) omit “or the age of 65”.
- (4) In regulation 53(7) (non-dependant deductions)—
  - (a) omit sub-paragraphs (c) and (d); and
  - (b) in sub-paragraph (e) omit the words beginning with “and” and ending with “65”.
- (5) Omit regulation 57(12)(a) (date on which change of circumstances is to take effect).
- (6) In regulation 65(4)(c) (duty to notify changes of circumstances) after “weeks” insert “or where the absence is from Northern Ireland, which exceeds or is likely to exceed 4 weeks”.
- (7) In the table in paragraph 1 of Schedule 4 (applicable amounts: personal allowances)—
  - (a) in entry (1)—
    - (i) omit “aged”,
    - (ii) omit paragraph (a) in both columns, and
    - (iii) in paragraph (b) in column (1) for “65 or over” substitute “who has attained pensionable age”;
  - (b) in entry (2)—
    - (i) omit paragraph (a) in both columns, and
    - (ii) in paragraph (b) in column (1) for “aged 65 or over” substitute “who has attained pensionable age”;
  - (c) omit entry (3); and
  - (d) in entry (4) for “are aged 65 or over” substitute “have attained pensionable age”.
- (8) In paragraph 12(b) of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

#### **Amendment of the Employment and Support Allowance Regulations**

**8.** In paragraph 17(c) of Schedule 8 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(**24**) (sums to be disregarded in the calculation of income other than earnings) after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

Sealed with the Official Seal of the Department for Communities on 20th December 2017

(L.S.)

*Anne McCleary*  
A senior officer of the Department for  
Communities

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(23) Paragraph (2)(a)(ii) was amended by regulation 4(8)(a) of [S.R. 2008 No. 378](#)  
(24) [S.R. 2008 No. 280](#)

The Department of Finance hereby consents to the foregoing regulations.  
Sealed with the Official Seal of the Department of Finance on 20th December 2017

(L.S.)

*Emer Morelli*  
A senior officer of the Department of Finance

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the following statutory rules:

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”);

The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”);

The State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit 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 SPC Regulations”); and

The Employment and Support Allowance Regulations (Northern Ireland) 2008 (“the Employment and Support Allowance Regulations”).

Regulation 2(2) amends the Income Support Regulations to insert a new paragraph 7A into Schedule 1B. This paragraph provides that persons in receipt of the daily living component of personal independence payment at the enhanced rate are a prescribed category of person for the purposes of those Regulations, but only where, immediately before receiving that benefit, the person was entitled to and in receipt of income support because he or she was treated as incapable of work under the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995.

Regulations 2(3), 3, 5(4), 7(8) and 8 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit (SPC) Regulations and the Employment and Support Allowance Regulations to provide that income received under an annuity purchased with a loan secured on a dwelling may be disregarded where, at the time the loan was made to the person, the person was aged 65 or, if it was higher at that time, pensionable age.

Regulation 4 amends the Decisions and Appeals Regulations to remove reference to the claimant or their partner being aged 65 or over.

Regulations 5(2) and 7(4) amend the State Pension Credit Regulations and the Housing Benefit (SPC) Regulations respectively to remove the requirement that exclusions from non-dependant deductions relating to non-dependant students be subject to certain conditions since, with the rising pensionable age, it is no longer relevant to make it a condition that the claimant or partner has attained the age of 65. Regulation 6 makes a similar amendment to the Housing Benefit Regulations but amends the condition so that the claimant or the claimant’s partner must be of pensionable age.

Regulation 5(3)(a) amends the State Pension Credit Regulations to provide that in order to be entitled to savings credit, one or more of the parties to a polygamous marriage must have attained pensionable age before 6 April 2016.

Regulation 5(3)(b) amends the State Pension Credit Regulations to provide a version of regulation 7A (limitations of savings credit) that will apply in relation to polygamous marriages.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 7(3), (5) and (7) amends the Housing Benefit (SPC) Regulations to align the Regulations with the rising pensionable age.

Regulation 7(6) amends the Housing Benefit (SPC) Regulations to introduce a requirement that persons likely to be absent from Northern Ireland for at least 4 weeks must notify the Department.

These Regulations 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, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.