
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 215

**SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT**

**The Social Security and Child Support (Miscellaneous
Amendments) Regulations (Northern Ireland) 2000**

Made - - - - - *16th June 2000*
Coming into operation *19th June 2000*

The Department for Social Development, in exercise of the powers conferred by Articles 18(1) and (4) and 19(3) and (5) of, and paragraphs 2, 4 and 7 of Schedule 4A to, the Child Support (Northern Ireland) Order 1991(1), sections 108(4) and 109(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2), section 5(1)(b) and (j) of the Social Security Administration (Northern Ireland) Act 1992(3) and Articles 8(6), 10(1) and (4), 11(3) and (6), 13(2), 15(11), 16(1), 21, 28(1), 32 and 74(1), (3), (5) and (6) of, and paragraph 12 of Schedule 1, paragraph 9 of Schedule 2, paragraph 9 of Schedule 3 and paragraphs 1 to 4, 6 and 9 of Schedule 4 to, the Social Security (Northern Ireland) Order 1998(4), and now vested in it(5), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 and shall come into operation on 19th June 2000.

(2) The Interpretation Act (Northern Ireland) 1954(6) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (1) *S.I. 1991/2628 (N.I. 23)*; Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998 (*S.I. 1998/1506 (N.I. 10)*) and Schedule 4A was inserted by Schedule 1 to the Child Support (Northern Ireland) Order 1995 (*S.I. 1995/2702 (N.I. 13)*) and amended by paragraph 36 of Schedule 6 to the Social Security (Northern Ireland) Order 1998
- (2) *1992 c. 7*; section 109(2) was amended by paragraph 47 of Schedule 6 to the Social Security (Northern Ireland) Order 1998
- (3) *1992 c. 8*
- (4) *S.I. 1998/1506 (N.I. 10)*; Article 13(2) was substituted by paragraph 19(3) of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (*S.I. 1999/671*)
- (5) *See Article 8(b) of S.R. 1999 No. 481*
- (6) *1954 c. 33 (N.I.)*

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

2. In regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986⁽⁷⁾ (recrudescence) in paragraph (4) for the words from “review of the assessment” to the end of that paragraph there shall be substituted “a supersession of the assessment relating to the relevant period.”.

Amendment of the Social Security (Claims and Payments) Regulations

3.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽⁸⁾ shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 6 (date of claim)—

(a) for paragraphs (16) to (26)⁽⁹⁾ there shall be substituted the following paragraphs—

“(16) Where a person has claimed a relevant benefit and that claim (“the original claim”) has been refused in the circumstances specified in paragraph (17), and a further claim is made in the additional circumstances specified in paragraph (18), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that the ground for refusal was—

- (a) in the case of severe disablement allowance, that the claimant’s disablement was less than 80 per cent.;
- (b) in the case of invalid care allowance, that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act;
- (c) in any case, that the claimant had not been awarded a qualifying benefit.

(18) The additional circumstances referred to in paragraph (16) are that—

- (a) the claimant had made a claim for the qualifying benefit not later than ten days after the date of the original claim, and the claim for the qualifying benefit had not been decided;
- (b) after the original claim had been decided the claim for the qualifying benefit had been decided in the claimant’s or the disabled person’s favour; and
- (c) the further claim was made within three months of the date on which the claim for the qualifying benefit was decided.

(19) Where a person has been awarded a relevant benefit and that award (“the original award”) has been terminated in the circumstances specified in paragraph (20), and a further claim is made in the additional circumstances specified in paragraph (21), that further claim shall be treated as made—

- (a) on the date of termination of the original award; or
- (b) on the first date in respect of which the qualifying benefit again becomes payable,

(7) S.R. 1986 No. 179, to which there are amendments not relevant to these regulations

(8) S.R. 1987 No. 465; relevant amending rules are S.R. 1990 No. 398, S.R. 1992 No. 83, S.R. 1993 Nos. 149 and 217, S.R. 1996 No. 354, S.R. 1997 Nos. 156 and 417, S.R. 1998 No. 182 and S.R. 1999 No. 472 (C. 36)

(9) Paragraphs (16) to (26) were added by regulation 3(4)(e) of S.R. 1997 No. 156

whichever is the later.

(20) The circumstances referred to in paragraph (19) are that the award of the qualifying benefit has itself been terminated or reduced by means of a revision, supersession or appeal in such a way as to affect the award of the relevant benefit.

(21) The additional circumstances referred to in paragraph (19) are that—

- (a) after the original award has been terminated the claim for the qualifying benefit is decided in the claimant's or the disabled person's favour; and
- (b) the further claim is made within three months of the date on which the qualifying benefit is re-awarded following revision, supersession or appeal.

(22) In paragraphs (16) to (21)—

“relevant benefit” means any of the following, namely—

- (a) benefit under Parts II to V of the Contributions and Benefits Act except incapacity benefit;
- (b) income support;
- (c) a jobseeker's allowance;
- (d) a social fund payment mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act⁽¹⁰⁾;
- (e) child benefit;

“qualifying benefit” means—

- (a) in relation to severe disablement allowance, the highest rate of the care component of disability living allowance;
- (b) in relation to invalid care allowance, any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act;
- (c) in relation to a social fund payment in respect of maternity or funeral expenses, any benefit referred to in regulation 4(1)(a) or 6(1)(a) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987⁽¹¹⁾;
- (d) any other relevant benefit which has the effect of making another relevant benefit payable or payable at an increased rate;

“the disabled person” means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act.

(23) Where a person has ceased to be entitled to incapacity benefit, and a further claim for that benefit is made in the circumstances specified in paragraph (24), that further claim shall be treated as made—

- (a) on the date on which entitlement to incapacity benefit ceased; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(24) The circumstances referred to in paragraph (23) are that—

- (a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;

⁽¹⁰⁾ Section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998

⁽¹¹⁾ S.R. 1987 No. 150; relevant amending regulations are S.R. 1988 No. 22, S.R. 1992 No. 6, S.R. 1996 No. 423, S.R. 1997 No. 155, S.R. 1999 No. 385 and S.R. 2000 No. 49

- (b) at the date that entitlement ceased the claimant had made a claim for a qualifying benefit and that claim had not been decided;
- (c) after entitlement had ceased, the claim for the qualifying benefit was decided in the claimant's favour; and
- (d) the further claim for incapacity benefit was made within three months of the date on which the claim for the qualifying benefit was decided.

(25) In paragraphs (23) and (24) "qualifying benefit" means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(12).

(26) In paragraphs (18)(a) and (c), (21)(a) and (24)(b) to (d), and in paragraph (18)(b) where it appears for the second time, "decided" includes the making of a decision following a revision, supersession or an appeal, whether by the Department, an appeal tribunal, a Commissioner or the court."; and

- (b) in paragraph (29)(13) for "paragraphs (16) and (21)" there shall be substituted "paragraphs (16) and (19)".

(3) In regulation 26(1)(14) (income support) " , the date from which a superseding decision on the ground of a relevant change of circumstances has effect" shall be omitted.

(4) In regulation 26A(15) (jobseeker's allowance)—

- (a) in paragraph (1) for "paragraphs (2) to (8)" there shall be substituted "the following provisions of this regulation"; and
- (b) paragraphs (4) to (8) shall be omitted.

(5) In Schedule 7(16) (manner and time of payment, effective date of superseding decision and commencement of entitlement in income support cases)—

- (a) in the heading, " , effective date of superseding decision" shall be omitted; and
- (b) paragraph 7 shall be omitted.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

4.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(17) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of "official error"(18) after "materially contributed" there shall added " , but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court".

(3) In regulation 16(6)(a)(i)(19) (revision of decisions) for "the date from which the decision had effect" there shall be substituted "the date on which the decision was made".

(4) In regulation 19(3)(a)(i) (supersession of decisions) for "since the decision was made" there shall be substituted "since the date from which the decision took effect".

(5) In regulation 22 (date from which a superseding decision takes effect)—

(12) S.R. 1995 No. 41; regulation 10(2)(a) was substituted by regulation 4(3)(b)(i) of S.R. 1995 No. 149

(13) Paragraph (29) was added by regulation 2(2) of S.R. 1997 No. 417

(14) Regulation 26(1) was amended by regulation 2(3) of S.R. 1993 No. 217 and Article 9(7)(a) of S.R. 1999 No. 472 (C. 36)

(15) Regulation 26A was inserted by regulation 2(14) of S.R. 1996 No. 354 and amended by regulation 6(2) of S.R. 1998 No. 182 and Article 9(8) of S.R. 1999 No. 472 (C. 36)

(16) Relevant amending rules are S.R. 1990 No. 398, S.R. 1992 No. 83, S.R. 1993 No. 149 and S.R. 1999 No. 472 (C. 36)

(17) S.R. 1992 No. 340; relevant amending regulations are S.R. 1999 No. 167

(18) The definition of "official error" was inserted by regulation 2(2)(a) of S.R. 1999 No. 167

(19) Regulations 16, 19 and 22 were substituted by regulation 2(12) of S.R. 1999 No. 167

- (a) in paragraphs (2) and (4) at the beginning there shall be inserted “Subject to paragraph (19),”; and
- (b) after paragraph (18) there shall be added the following paragraph—
 - “(19) Where a superseding decision is made in a case to which regulation 19(2) (a) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, that decision shall take effect from the first day of the maintenance period in which the change occurred.”.

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

5.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(20) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of “official error”(21) after “materially contributed” there shall be added “, but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court”.

(3) In regulation 8(22) (procedure in relation to the determination of an application) paragraph (8) shall be omitted.

(4) In regulation 32A(2)(a)(i)(23) (revision of decisions) for “the date from which the decision had effect” there shall be substituted “the date on which the decision was made”.

(5) In regulation 32E (date from which a superseding decision takes effect)—

- (a) in paragraph (2) for “paragraphs (3) and (5)” there shall be substituted “paragraphs (3), (5) and (12)”;
- (b) in paragraph (3) at the beginning there shall be inserted “Subject to paragraph (12),”; and
- (c) after paragraph (11) there shall be added the following paragraph—
 - “(12) Where a superseding decision is made in a case to which regulation 32D(2) (a) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, that decision shall take effect from the first day of the maintenance period in which the change occurred.”.

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

6.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(24) shall be amended in accordance with paragraphs (2) to (22).

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of “disability determination”(25) there shall be inserted the following definition—
 - ““family” has the same meaning as in section 133(1) of the Contributions and Benefits Act;”;
- (b) in the definition of “incapacity benefit decision” after “relevant benefit” there shall be inserted “or relevant credit”;

(20) S.R. 1996 No. 541; relevant amending regulations are S.R. 1999 No. 167

(21) The definition of “official error” was inserted by regulation 3(2)(b) of S.R. 1999 No. 167

(22) Paragraph (8) was amended by regulation 3(5)(b) of S.R. 1999 No. 167

(23) Regulations 32A and 32E were inserted by regulation 3(11) of S.R. 1999 No. 167

(24) S.R. 1999 No. 162; relevant amending rules are S.R. 1999 Nos. 267, 271 (C. 22) and 472 (C. 36) and S.R. 2000 No. 3

(25) The definitions of “disability determination”, “incapacity benefit decision” and “incapacity determination” were inserted by regulation 2(2) of S.R. 1999 No. 267

- (c) in the definition of “incapacity determination” for “all work test” there shall be substituted “personal capability assessment”;
 - (d) in the definition of “official error” after “materially contributed” there shall be added “, but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Commissioner or the court”; and
 - (e) after the definition of “referral” there shall be inserted the following definition—
 - ““relevant credit” means a credit of contributions or earnings resulting from a decision in accordance with regulations made under section 22(5) of the Contributions and Benefits Act(26);”.
- (3) In regulation 3 (revision of decisions) for paragraph (7) there shall be substituted the following paragraph—
- “(7) A decision under Article 9 or 11 may be revised where—
- (a) the Department, appeal tribunal or Commissioner has awarded a relevant benefit; and
 - (b) on the date on which entitlement to that benefit arises, the claimant or a member of his family becomes entitled to and is paid another relevant benefit or an increase in the rate of another relevant benefit.”.
- (4) In regulation 6(2) (supersession of decisions) for sub-paragraph (e) there shall be substituted the following sub-paragraph—
- “(e) is a decision where—
- (i) the claimant has been awarded a relevant benefit, and
 - (ii) on a date after entitlement to that benefit arises, the claimant or a member of his family becomes entitled to and is paid another relevant benefit or an increase in the rate of another relevant benefit;”.
- (5) In regulation 7(27) (date from which a decision superseded under Article 11 takes effect)—
- (a) in paragraph (1) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
 - “(a) is, except for paragraph (2)(b), subject to Schedule 2A; and”;
 - (b) in paragraph (2) after sub-paragraph (b) there shall be inserted—
 - “(bb) where the decision is advantageous to the claimant and is made on the Department’s own initiative, from the date on which the Department commenced action with a view to supersession; or”;
 - (c) for paragraph (5) there shall be substituted the following paragraph—
 - “(5) Where the Department supersedes a decision made by an appeal tribunal or a Commissioner on the grounds specified in regulation 6(2)(c), the decision under Article 11 shall take effect, in a case where, as a result of that ignorance of, or mistake as to, a material fact, the decision to be superseded was more advantageous to the claimant than it would otherwise have been and which either—
 - (a) does not relate to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination; or
 - (b) relates to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination, and the Department is satisfied

(26) Section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(27) Paragraphs (1) and (2) were amended by Article 17 of S.R. 1999 No. 472 (C. 36) and paragraph (9) was substituted by regulation 2(2) of S.R. 2000 No. 3

that at the time the decision was made the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,

from the date on which the decision of the appeal tribunal or the Commissioner took, or was to take, effect.”;

(d) for paragraph (7) there shall be substituted the following paragraph—

“(7) A decision which falls to be superseded under regulation 6(2)(e) shall be superseded from the date on which the claimant or member of his family becomes entitled to and receives the relevant benefit or increase in benefit referred to in regulation 6(2)(e)(ii).”; and

(e) in paragraph (9)(a) for “the date of that decision” there shall be substituted “the date on which the Department commenced action with a view to supersession”.

(6) After regulation 12 (decisions of the Department relating to industrial injuries benefit) there shall be inserted the following regulation—

“Recrudescence of a prescribed disease

12A.—(1) This regulation applies to a decision made under sections 108 to 110 of the Contributions and Benefits Act where a disease is subsequently treated as a recrudescence under regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986.

(2) Where this regulation applies Chapter II of Part II of the Order shall apply as if Article 9(2) were omitted.”.

(7) In regulation 16 (suspension in prescribed cases) for paragraph (4) there shall be substituted the following paragraph—

“(4) For the purposes of Article 21(3)(c) an appeal is pending where a decision of an appeal tribunal, a Commissioner or a court has been made and the Department—

- (a) is awaiting receipt of that decision or, in the case of an appeal tribunal decision, is considering whether to apply for a statement of the reasons for it, or has applied for such a statement and is awaiting receipt thereof; or
- (b) has received that decision or, in the case of an appeal tribunal decision, the statement of the reasons for it, and is considering whether to apply for leave to appeal, or, where leave to appeal has been granted, is considering whether to appeal,

and the Department shall give written notice of its proposal to make a request for a statement of the reasons for a tribunal’s decision, to apply for leave to appeal, or to appeal, as soon as reasonably practicable.”.

(8) In regulation 20(28) (making of payments which have been suspended)—

(a) in paragraph (1) sub-paragraph (c) shall be omitted; and

(b) for paragraphs (2) and (3) there shall be substituted the following paragraphs—

“(2) Where regulation 16(3)(b)(i) applies, payment of a benefit suspended shall be made where—

- (a) the Department does not, in the case of a decision of an appeal tribunal, apply for a statement of the reasons for that decision within the period of one month specified in regulation 53(4);

- (b) in the case of a decision of an appeal tribunal, a Commissioner or a court, an application for leave to appeal and, where leave to appeal is granted, the appeal is not made within the time prescribed for the making of such applications and appeals;
- (c) an application for leave to appeal or the appeal is withdrawn; or
- (d) leave to appeal is refused in circumstances where it is not open for the application for leave to be renewed or for a further application for leave to appeal to be made.

(3) Where regulation 16(3)(b)(ii) applies, payment of a benefit suspended shall be made where, in relation to the decision of a Commissioner or the court in a different case—

- (a) an application for leave to appeal and, where leave to appeal is granted, the appeal is not made within the time prescribed for the making of such applications and appeals;
- (b) an application for leave to appeal or the appeal is withdrawn; or
- (c) leave to appeal is refused in circumstances where it is not open for the application for leave to be renewed or for a further application for leave to appeal to be made.”.

(9) In regulation 26 (decisions against which an appeal lies) after paragraph (b) there shall be added—

“or

- (c) under Schedule 6 to the Contributions and Benefits Act in relation to sections 103 and 108 of that Act for the purposes of industrial injuries benefit under Part V of that Act.”.

(10) In regulation 33 (making of appeals and applications) after paragraph (8) there shall be added the following paragraph—

“(9) The Department may discontinue action on an appeal where the appeal has not been forwarded to the clerk to the appeal tribunal or to a legally qualified panel member and the appellant has given written notice that he does not wish the appeal to continue.”.

(11) In regulation 36(29) (composition of appeal tribunals)—

- (a) in paragraph (1) “, including an appeal tribunal determining a misconceived appeal as a preliminary issue in accordance with regulation 48,” shall be omitted;
- (b) in paragraph (2) for “paragraphs (3) to (5)” there shall be substituted “paragraphs (3) to (5), (8) and (9)”;
- (c) in paragraphs (2)(a)(i) and (7) for “all work test” there shall be substituted “personal capability assessment”;
- (d) in paragraph (2)(b)(i) after “appeal” there shall be inserted “(not being an appeal where the only issue is whether there should be a declaration of an industrial accident under Article 29(2))”;
- (e) in paragraph (5) for “or (3)” there shall be substituted “, (3) or (9)”;
- (f) in paragraph (6) for “a disability working allowance” there shall be substituted “a disabled person’s tax credit”; and
- (g) after paragraph (7) there shall be added the following paragraphs—

“(8) A person shall not act as a medically qualified panel member of an appeal tribunal in any appeal if he has at any time advised or prepared a report on any person

whose medical condition is relevant to the issue in the appeal, or has at any time regularly attended such a person.

(9) Subject to paragraph (5), an appeal tribunal determining a misconceived appeal as a preliminary issue in accordance with regulation 48 shall consist of a legally qualified panel member.”.

(12) In regulation 42 (non-disclosure of medical advice or evidence)—

(a) in paragraph (1)—

(i) “the consideration and determination of” and “before an appeal tribunal” shall be omitted, and

(ii) for “the chairman or, in the case of an appeal tribunal which has only one member, that member,” there shall be substituted “a legally qualified panel member”; and

(b) in paragraph (2) for “the chairman or, in the case of an appeal tribunal which has only one member, that member,” there shall be substituted “a legally qualified panel member”.

(13) In regulation 47 (reinstatement of struck out appeals) for “48(2)” there shall be substituted “48”.

(14) In regulation 49(10) (procedure at oral hearings) after “any witness” there shall be added “or of any person whom the chairman or, in the case of an appeal tribunal which has only one member, that member, permits to be present in order to assist the clerk”.

(15) In regulation 53 (decisions of appeal tribunals)—

(a) in paragraph (3)(b) at the beginning there shall be inserted “except in the case of an appeal under the Vaccine Damage Payments Act,”; and

(b) in paragraph (4)—

(i) “a copy of” shall be omitted, and

(ii) after “regulation 54” there shall be added “and following that application the chairman or, as the case may be, that member shall record a statement of the reasons and a copy of that statement shall be sent or given to every party to the proceedings as soon as may be practicable”.

(16) In regulation 54 (late applications for statement of reasons for tribunal decision)—

(a) in paragraph (1)—

(i) “a copy of” shall be omitted, and

(ii) after “are satisfied, but” there shall be inserted “, subject to paragraph (12A),”; and

(b) after paragraph (12) there shall be inserted the following paragraph—

“(12A) In calculating the time specified for applying in writing for the statement of the reasons for the tribunal’s decision there shall be disregarded any day which falls before the day on which notice was given of—

(a) a correction of a decision or the record thereof pursuant to regulation 56; or

(b) a determination that a decision shall not be set aside following an application made under regulation 57.”.

(17) In regulation 56(1) (correction of accidental errors) for “, where the clerk refers the matter to a legally qualified panel member, that member,” there shall be substituted “a legally qualified panel member”.

(18) In regulation 57 (setting aside decisions on certain grounds)—

(a) for paragraph (3) there shall be substituted the following paragraph—

“(3) An application under this regulation shall—

- (a) be made within one month of the date on which—
 - (i) a copy of the decision notice is sent or given to the parties to the proceedings in accordance with regulation 53(3), or
 - (ii) the statement of the reasons for the decision is sent or given in accordance with regulation 53(4),
 whichever is the later;
 - (b) be in writing and signed by a party to the proceedings or, where the party has provided written authority to a representative to act on his behalf, that representative;
 - (c) contain particulars of the grounds on which it is made; and
 - (d) be sent to the clerk to the appeal tribunal.”; and
- (b) after paragraph (5) there shall be added the following paragraphs—
- “(6) The time within which an application under this regulation must be made may be extended by a period not exceeding one year where the conditions specified in paragraphs (7) to (11) are satisfied.
- (7) An application for an extension of time shall be made in accordance with paragraph (3)(b) to (d), shall include details of any relevant special circumstances for the purposes of paragraph (9) and shall be determined by a legally qualified panel member.
- (8) An application for an extension of time shall not be granted unless the panel member is satisfied that—
- (a) if the application is granted there are reasonable prospects that the application to set aside will be successful; and
 - (b) it is in the interests of justice for the application for an extension of time to be granted.
- (9) For the purposes of paragraph (8) it is not in the interests of justice to grant an application for an extension of time unless the panel member is satisfied that—
- (a) the special circumstances specified in paragraph (10) are relevant to that application; or
 - (b) some other special circumstances exist which are wholly exceptional and relevant to that application,
- and as a result of those special circumstances, it was not practicable for the application to set aside to be made within the time limit specified in paragraph (3)(a).
- (10) For the purposes of paragraph (9)(a) the special circumstances are that—
- (a) the applicant or a spouse or dependant of the applicant has died or suffered serious illness;
 - (b) the applicant is not resident in the United Kingdom; or
 - (c) normal postal services were disrupted.
- (11) In determining whether it is in the interests of justice to grant an application for an extension of time, the panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiry of the time within which the application to set aside is to be made and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application for an extension is based.

(12) An application under this regulation for an extension of time which has been refused may not be renewed.”.

(19) After regulation 57 there shall be inserted the following regulation—

“Provisions common to regulations 56 and 57

57A.—(1) In calculating any time specified for appealing to a Commissioner or, as the case may be, a Child Support Commissioner from a decision of an appeal tribunal there shall be disregarded any day falling before the day on which notice was given of a correction of a decision or the record thereof pursuant to regulation 56 or on which notice was given of a determination that a decision shall not be set aside following an application made under regulation 57, as the case may be.

(2) There shall be no appeal against a correction made under regulation 56 or a refusal to make such a correction or against a determination given under regulation 57.

(3) Nothing in this Chapter shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from these Regulations.”.

(20) In regulation 58(6) (application for leave to appeal to a Commissioner from an appeal tribunal) after “that member,” there shall be inserted “or if the President considers it necessary or expedient for the purpose of supervising panel members or in the monitoring of decision-making by panel members,”.

(21) In Schedule 1 (decisions against which no appeal lies)—

(a) in paragraph 5 sub-paragraph (b) shall be omitted; and

(b) in paragraphs 11 and 17(3) “which embodies a determination” shall be omitted.

(22) After Schedule 2 (qualifications of persons appointed to the panel) there shall be inserted as Schedule 2A the Schedule set out in Schedule 1 to these Regulations.

Revocations

7. The Regulations specified in column (1) of Schedule 2 are revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Department for Social Development on 16th June 2000.

L.S.

John O'Neill
Senior Officer of the
Department for Social Development

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

SCHEDULE 1

Regulation 6(22)

“SCHEDULE 2A

Regulation 7(1)(a)

Date on which change of circumstances takes effect in certain cases where a claimant is in receipt of income support or a jobseeker’s allowance

Income Support

1. Subject to paragraphs 2 to 6, where the amount of income support payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect—

- (a) where income support is paid in arrears, from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur; or
- (b) where income support is paid in advance, from the date of the relevant change of circumstances, or the day on which the relevant change of circumstances is expected to occur, if either of those days is the first day of the benefit week and otherwise from the next following such day, and

for the purposes of this paragraph any period of residence in temporary accommodation under arrangements for training made under sections 2 and 3 of the Disabled Persons (Employment) Act 1945⁽³⁰⁾ or section 1(1) of the Employment and Training Act (Northern Ireland) 1950⁽³¹⁾ for a period which is expected to last for seven days or less shall not be regarded as a change of circumstances.

2. In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

3. The cases referred to in paragraph 2 are where—

- (a) income support is paid in arrears and entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of section 123(1)(b) of the Contributions and Benefits Act;
- (b) a child or young person referred to in regulation 16(6) of the Income Support Regulations⁽³²⁾ lives, or is expected to live, with the claimant for part only of the benefit week;
- (c) a claimant or his partner (as defined in regulation 2(1) of the Income Support Regulations) enters, or is expected to enter, a nursing home or a residential care home (as defined in regulation 19(2) of those Regulations⁽³³⁾) or residential accommodation (as defined in regulation 21(3) of those Regulations⁽³⁴⁾) for a period of not more than 8 weeks;
- (d) a person referred to in paragraph 1, 2, 3 or 16 of Schedule 7 to the Income Support Regulations⁽³⁵⁾—
 - (i) ceases, or is expected to cease, to be a patient, or

⁽³⁰⁾ 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

⁽³¹⁾ 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

⁽³²⁾ Regulation 16(6) was amended by regulation 3(3)(b) of S.R. 1990 No. 387

⁽³³⁾ The definition of “nursing home” was substituted by paragraph 6(5)(b) of Schedule 2 to S.R. 1993 No. 149 and the definition of “residential care home” was inserted by paragraph 1(3)(a) of Schedule 1 to S.R. 1993 No. 149 and amended by regulation 4(9)(d) of S.R. 1993 No. 373 and paragraph 1(e) of Schedule 12 to S.R. 1994 No. 65

⁽³⁴⁾ The definition of “residential accommodation” was substituted by paragraph 1(4)(a) of Schedule 1 to S.R. 1993 No. 149 and amended by paragraph 1(f) of Schedule 12 to S.R. 1994 No. 65

⁽³⁵⁾ Relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 No. 139, S.R. 1990 No. 131, S.R. 1991 No. 46, S.R. 1996 No. 288 and S.R. 2000 No. 38

- (ii) a member of his family ceases, or is expected to cease, to be a patient, in either case for a period of less than a week;
 - (e) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations—
 - (i) becomes a prisoner, or
 - (ii) ceases to be a prisoner;
 - (f) a person to whom section 125 of the Contributions and Benefits Act applies—
 - (i) becomes incapable of work by reason of disease or bodily or mental disablement, or
 - (ii) enters the maternity period (as defined in section 125(2) of that Act) or the day is known on which that person is expected to enter the maternity period;
 - (g) during the currency of the claim, a claimant makes a claim for incapacity benefit, severe disablement allowance, retirement pension or widow's benefit—
 - (i) the result of which is that his benefit week changes, or
 - (ii) an award of that benefit on the relevant day for the purposes of regulation 13 of the Claims and Payments Regulations means that his benefit week is expected to change.
4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 31(1)(b) or (2) or 39C(3) of the Income Support Regulations⁽³⁶⁾ shall take effect from the day on which that payment is treated as made.
5. Where—
- (a) it is decided upon supersession on the ground of a relevant change of circumstances that the amount of income support is, or is to be, reduced; and
 - (b) the Department certifies that it is impracticable for the superseding decision to take effect from the day prescribed in the preceding paragraphs (other than where paragraph 3(g) or 4 applies),

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made, or
- (ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

6. Where—

- (a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in paragraph 3(b) to (g); and
- (b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”),

that subsequent decision shall take effect from the date of the second change.

Jobseeker's Allowance

7. Subject to paragraphs 8 to 11, where a decision in respect of a claim for a jobseeker's allowance is superseded on the ground that there has been, or there is expected to be, a relevant change of circumstances, the supersession shall take effect from the first day of the benefit week (as defined

⁽³⁶⁾ Relevant amending regulations are S.R. 1988 Nos. 146 and 318, S.R. 1995 No. 67, S.R. 1996 No. 199, S.R. 1998 No. 182 and S.R. 2000 No. 74

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in regulation 1(2) of the Jobseeker’s Allowance Regulations(37) in which that relevant change of circumstances occurs or is expected to occur.

8. Where the relevant change of circumstances giving rise to the supersession is that—
- (a) entitlement to a jobseeker’s allowance ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of Article 5(1)(a) of the Jobseekers Order;
 - (b) a child or young person who is normally in the care of a local authority or who is detained in custody lives, or is expected to live, with the claimant for part only of the benefit week;
 - (c) the claimant or his partner enters, or is expected to enter, a nursing home or residential care home (as defined in regulation 1(2) of the Jobseekers Allowance Regulations) for a period of not more than 8 weeks; or
 - (d) the partner of the claimant or a member of his family ceases, or is expected to cease, to be a hospital in-patient for a period of less than a week,

the supersession shall take effect from the date on which the relevant change of circumstances occurs or is expected to occur.

9. Where the relevant change of circumstances giving rise to a supersession is any of those specified in paragraph 8 and, in consequence of those circumstances ceasing to apply, a further superseding decision is made, that further superseding decision shall take effect from the date on which those circumstances ceased to apply.

10. Where, under the provisions of regulation 96 or 102C(3) of the Jobseeker’s Allowance Regulations(38), income is treated as paid on a certain date and that payment gives rise, or is expected to give rise, to a relevant change of circumstances resulting in a supersession, that supersession shall take effect from that date.

11. Where a relevant change of circumstances occurs which results, or is expected to result, in a reduced award of a jobseeker’s allowance then, if the Department is of the opinion that it is impracticable for a supersession to take effect in accordance with the preceding paragraphs, the supersession shall take effect from the first day of the benefit week following that in which the relevant change of circumstances occurs.”.

SCHEDULE 2

Regulation 7

Revocations

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of revocation</i>
The Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1990	S.R. 1990 No. 398	Regulation 7(9)
The Social Security (Miscellaneous Provisions)	S.R. 1992 No. 83	Regulation 7(10)

(37) The definition of “benefit week” was amended by regulation 2(2) of [S.R. 1996 No. 358](#) and regulation 2(2)(a) of [S.R. 1996 No. 503](#)

(38) Regulation 96 was amended by regulation 3(2) of [S.R. 2000 No. 74](#) and regulation 102C was inserted by regulation 4(4) of [S.R. 1998 No. 182](#)

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of revocation</i>
(Amendment) Regulations (Northern Ireland) 1992		
The Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations (Northern Ireland) 1993	S.R. 1993 No. 149	Schedule 2, paragraph 3(2)
The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 1998	S.R. 1998 No. 182	Regulation 6
The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999	S.R. 1999 No. 167	Regulation 3(5)(b)
The Social Security (1998 Order) (Commencement No. 11 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999	S.R. 1999 No. 472 (C. 36)	Article 9(7)(a), (8) and (12)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986 (“the Prescribed Diseases Regulations”), the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”), the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 (“the Maintenance Assessment Procedure Regulations”), the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996 (“the Departure Direction Regulations”) and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”).

Regulation 2 amends the Prescribed Diseases Regulations in consequence of the changes to the decision-making process for social security introduced by the Social Security (Northern Ireland) Order 1998 (“the Order”).

Regulation 3 amends the Claims and Payments Regulations to provide that in cases where an award of benefit has the effect of making another relevant benefit payable or payable at an increased rate, the periods of entitlement to the two benefits shall be the same in the circumstances specified.

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Regulations 4 and 5 respectively amend the Maintenance Assessment Procedure Regulations and the Departure Direction Regulations to provide for the effective date of a superseding decision on a change of circumstances where a child ceases to be a qualifying child.

Regulation 6 amends the Decisions and Appeals Regulations to make provision as regards—

- the power to revise or supersede a decision;
- the effective date of a superseding decision in specified circumstances;
- the disapplication of Article 9(2) of the Order to cases where there is a recrudescence of a prescribed disease;
- when an appeal is pending for the purposes of Article 21(3)(c) of the Order;
- the time when payments of benefit which have been suspended shall be payable;
- the right of appeal against a decision made on a percentage assessment of disability in industrial injury benefit cases;
- the discontinuation of action on an appeal in certain circumstances;
- the composition of an appeal tribunal;
- the decision taken by a legally qualified panel member whether to withhold medical advice and evidence from a claimant;
- the striking out of appeals;
- persons entitled to be present at an appeal tribunal hearing;
- when a statement of the reasons for a decision is to be recorded;
- calculation of the time for applying for a statement of the reasons for an appeal tribunal's decision;
- the correction by the clerk to an appeal tribunal or a legally qualified panel member of accidental errors in decisions;
- the setting aside of a decision of an appeal tribunal on certain grounds;
- the way in which certain time limits are to be calculated; and
- the circumstances in which an application for leave to appeal may be determined by a legally qualified panel member.

Regulation 7 makes consequential revocations.

These Regulations correspond to provision contained in Regulations made by the Secretary of State for Social Security 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.

These Regulations do not impose a charge on business.