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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 71**

**The Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000**

**Transitional arrangements and savings**

**11.**—(1) Paragraph (2) shall apply where, in relation to a claim for income support, a social fund payment or housing benefit, as the case may be, a person has submitted a claim for asylum on or before 2nd April 2000 and is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>(1)</sup> as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967<sup>(2)</sup>.

(2) Where this paragraph applies—

- (a) regulation 21A of the Income Support Regulations (treatment of refugees) shall continue to have effect as if regulation 5(5) of these Regulations had not been made;
- (b) paragraphs 1 and 2 of Schedule A1 to the Housing Benefit Regulations (treatment of claims for housing benefit by refugees) shall continue to have effect as if regulation 6(5) of these Regulations had not been made; and
- (c) regulation 6(4D) of the Claims and Payments Regulations shall continue to have effect as if regulation 7 of these Regulations had not been made.

(3) Regulation 70 of the Income Support Regulations or regulation 147 of the Jobseeker's Allowance Regulations, as the case may be, shall apply to a person who is an asylum seeker within the meaning of paragraph (5) who has not ceased to be an asylum seeker by virtue of paragraph (6).

(4) For the purposes of regulation 7A of the Housing Benefit Regulations, a person who is an asylum seeker within the meaning of paragraph (5) who has not ceased to be an asylum seeker by virtue of paragraph (6), is not a person from abroad within the meaning of paragraph (1) of that regulation.

(5) An asylum seeker within the meaning of this paragraph is a person who—

- (a) submits on his arrival (other than on his re-entry) in the United Kingdom from a country outside the Common Travel Area a claim for asylum on or before 2nd April 2000 to the Secretary of State that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or required to leave, the United Kingdom and that claim is recorded by the Secretary of State as having been made before that date; or
- (b) on or before 2nd April 2000 becomes, while present in Northern Ireland, an asylum seeker when—
  - (i) the Secretary of State makes a declaration to the effect that the country of which he is a national is subject to such a fundamental change of circumstances that he would not normally order the return of a person to that country;

- (ii) he submits, within a period of three months from the date on which that declaration was made, a claim for asylum to the Secretary of State under the Convention, and
  - (iii) his claim for asylum under that Convention is recorded by the Secretary of State as having been made; and
  - (c) in the case of a claim for income-based jobseeker's allowance, holds a work permit or has written authorisation from the Secretary of State permitting him to work in the United Kingdom.
- (6) A person ceases to be an asylum seeker for the purposes of this paragraph when his claim for asylum is recorded by the Secretary of State as having been decided (other than on appeal) or abandoned.
- (7) In paragraph (5) "the Common Travel Area" means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively and "the Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967.
- (8) Where, before the coming into operation of these Regulations, a person has claimed benefit to which he is entitled or is receiving benefit by virtue of regulation 11(3) of the Persons from Abroad Regulations or regulation 16B(g) of the Child Benefit (General) Regulations (Northern Ireland) 1979(3), as the case may be, those provisions shall continue to have effect, for the purposes of entitlement to attendance allowance, disability living allowance, invalid care allowance, severe disablement allowance or child benefit, as the case may be, until such time as—
- (a) his claim for asylum (if any) is recorded by the Secretary of State as having been decided or abandoned; or
  - (b) his entitlement to that benefit is revised or superseded under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998(4), if earlier,
- as if regulations 3, 4, 8, 9 and 12(2) or (3) of these Regulations, as the case may be, had not been made.
- (9) In regulation 11(1) of the Persons from Abroad Regulations after "shall have effect" there shall be inserted "(both as regards him and as regards persons who are members of his family at the coming into operation of these Regulations)".
- (10) Notwithstanding the amendments in regulations 5 and 6 of these regulations, regulation 11(1) and (2) of the Persons from Abroad Regulations shall continue to have effect as they had effect before those amendments came into operation.

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(3) S.R. 1979 No. 5; regulation 16B was inserted by S.R. 1996 No. 422 and amended by S.R. 1998 No. 81 and paragraph (g) was added by regulation 2(b) of S.R. 1996 No. 469 and amended by Article 7(4) of S.R. 1999 No. 310 (C. 23)

(4) S.I.1998/1506 (N.I. 10); paragraph (4) of Article 11 was repealed by Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999