

2001 No. 78

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
(Northern Ireland) 2001**

Made 23rd February 2001

Coming into operation 9th April 2001

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(a), 123(1)(e), 131(1), 132(4)(b), 133(2)(d) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 1(1), 13A(2)(a) and 165(4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b) and Articles 6(5), 23, 28 and 36(2) of, and paragraph 1(2)(a) of Schedule 1 to, the Jobseeker's (Northern Ireland) Order 1995(c) and now vested in it(d), 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 2001 and shall come into operation on 9th April 2001.

(2) In these Regulations “the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(e).

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

Amendment of regulation 2 of the Income Support Regulations

2. In regulation 2(1) of the Income Support Regulations (interpretation) after the definition of “net-profit” there shall be inserted the following definition—

“the New Deal options” means the employment programmes specified in regulation 75(1)(a) of the Jobseeker's Allowance Regulations

(a) 1992 c. 7; section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseeker's (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(b) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9))

(c) S.I. 1995/2705 (N.I. 15)

(d) See Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481)

(e) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1995 Nos. 86 and 301, S.R. 1996 Nos. 199 and 405, S.R. 1998 No. 324, S.R. 1999 No. 381 and S.R. 2000 No. 74 and S.R. 2001 Nos. 4 and 25

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

(Northern Ireland) 1996(a) and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;”.

Amendment of regulation 5 of the Income Support Regulations

3. In regulation 5 of the Income Support Regulations (persons treated as engaged in remunerative work) paragraphs (8) to (10)(b) shall be omitted.

Amendment of regulation 6 of the Income Support Regulations

4. In regulation 6 of the Income Support Regulations (persons not treated as engaged in remunerative work) after paragraph (4)(c) there shall be added the following paragraphs—

“(5) A person shall not be treated as engaged in remunerative work for the period specified in paragraph (6) in so far as—

(a) he or his partner is engaged in work which—

(i) is remunerative work, and

(ii) he, or his partner, is expected to be engaged in for a period of no less than 5 weeks;

(b) he or his partner had, for a continuous period of 26 weeks ending on the day before the day on which he commenced the work referred to in sub-paragraph (a), been entitled to and in receipt of income support or an income-based jobseeker’s allowance;

(c) he or his partner had, as at the day before the day on which he commenced the work referred to in sub-paragraph (a), an applicable amount which included—

(i) an amount determined in accordance with Schedule 3 (housing costs) as applicable to him in respect of a loan which qualifies under paragraph 15 (loans on residential property) or 16 (loans for repairs and improvements to the dwelling occupied as the home) of that Schedule, or

(ii) an amount determined in accordance with Schedule 2 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (housing costs) as applicable to him in respect of a loan which qualifies under paragraph 14 (loans on residential property) or 15 (loans for repairs and improvements to the dwelling occupied as the home) of that Schedule, and

(d) he or his partner remain liable to make payments on such a loan.

(6) A person referred to in paragraph (5) shall not be treated as engaged in remunerative work for—

(a) the period of 4 weeks commencing with the day on which he was first engaged in the work referred to in sub-paragraph (a) of that paragraph, or

(a) S.R. 1996 No. 198; regulation 75(1)(a) was amended by regulation 2(4) of S.R. 2000 No. 197

(b) Paragraphs (8) to (10) were added by regulation 2(2) of S.R. 1999 No. 381

(c) Paragraph (4) was added by regulation 2(b)(iii) of S.R. 2000 No. 74

(b) in the case of a person to whom paragraph (2) applies, a period of 2 weeks commencing with the day after the end of the 14 day period specified in paragraph (3).

(7) In calculating the period of benefit entitlement referred to in paragraph (2)(b) or (5)(b), no account shall be taken of entitlement arising by virtue of paragraph (3) or (6).

(8) In paragraph (5), a reference to the claimant or his partner being entitled to and in receipt of an income-based jobseeker's allowance or to an amount being applicable to either of them under the Jobseeker's Allowance Regulations (Northern Ireland) 1996 shall include a reference to the claimant and his partner being entitled to, and in receipt of, a joint-claim jobseeker's allowance and to an amount being applicable to that couple under those Regulations.”.

Amendment of Schedule 1B to the Income Support Regulations

5. In Schedule 1B to the Income Support Regulations(**a**) (prescribed categories of person) after paragraph 9(**b**) (persons in employment living in residential care homes, nursing homes or residential accommodation) there shall be inserted the following paragraph—

“Persons who have commenced remunerative work

9A. A person to whom regulation 6(5)(c) (persons not treated as engaged in remunerative work) applies.”.

Amendment of Schedule 3 to the Income Support Regulations

6. In Schedule 3 to the Income Support Regulations(**d**) (housing costs)—

(a) in paragraph 14 (linking rule)—

(i) in sub-paragraph (1)(a)(ii)(e), after “12 weeks or less” there shall be inserted “or, as the case may be, 52 weeks or less,”;

(ii) in sub-paragraph (1)(c)(iv), after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(iii) in sub-paragraph (1)(d), after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(iv) in sub-paragraph (1)(f)(iii), after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(b) in sub-paragraph (10)(f) after “(1)(a)(ii),” there shall be inserted “(1)(c)(iv),”;

(c) after sub-paragraph (10) there shall be added the following sub-paragraphs—

“(11) For the purposes of sub-paragraph (1)(a)(ii), (c)(iv), (d) and (f)(iii), the relevant period shall be—

(a) Schedule 1B was inserted by regulation 22 of and Schedule 1 to S.R. 1996 No. 199

(b) Paragraph 9 was amended by regulation 2(d)(ii) of S.R. 2000 No. 74

(c) Regulation 6(5) is inserted by regulation 4 of these Regulations

(d) Schedule 3 was substituted by regulation 2 of and Schedule 1 to S.R. 1995 No. 301

(e) Head (a)(ii) was amended by regulation 5(10)(b) of S.R. 1996 No. 405

(f) Sub-paragraph (10) was added by regulation 8(4)(b) of S.R. 1998 No. 324

(a) 52 weeks in the case of a person to whom sub-paragraph (12) applies;

(b) subject to sub-paragraph (10), 12 weeks in any other case.

(12) This sub-paragraph applies, subject to sub-paragraph (13), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to income support because he or his partner—

(a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;

(b) is taking active steps to establish himself in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(q) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (circumstances in which a person is to be treated as actively seeking employment), or

(c) is participating in—

(i) a New Deal option, or

(ii) the self-employment route,

and, as a consequence, he or his partner was engaged in remunerative work or had income in excess of the applicable amount as prescribed in Part IV (applicable amounts).

(13) Sub-paragraph (12) shall only apply to the extent that immediately before the day on which the person ceased to be entitled to income support, his housing costs were being met in accordance with paragraph 6(1)(a) or 8(1)(a) or would have been so met but for any non-dependant deduction under paragraph 18.”.

Amendment of Schedule 7 to the Income Support Regulations

7. In Schedule 7 to the Income Support Regulations (applicable amounts in special cases) after paragraph 17(a) (claimants entitled to the disability premium for a past period)—

(a) in column (1) there shall be inserted—

“Persons who have commenced remunerative work

17A. A person to whom regulation 6(5) (persons not treated as engaged in remunerative work) applies.”, and

(b) in column (2) there shall be inserted—

“17A.—(1) Subject to sub-paragraph (2), the lowest of either—

(a) the amount determined in accordance with—

(i) Schedule 3 (housing costs), or

(a) Paragraph 17 was amended by regulation 2(11) of S.R. 1995 No. 86 and regulation 6 of S.R. 2000 No. 74

(ii) as the case may be, Schedule 2 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (housing costs);

which was applicable to the claimant or his partner immediately before he or his partner commenced the remunerative work referred to in regulation 6(5)(a), or

(b) the amount of income support or, as the case may be, income-based jobseeker's allowance which the claimant or his partner was entitled to in the benefit week immediately before the benefit week in which he or his partner commenced the remunerative work referred to in regulation 6(5)(a) or, where he or his partner was in receipt of a training allowance in that benefit week, the amount of income support or income-based jobseeker's allowance which he would have been entitled to in that week had he not been in receipt of a training allowance.

(2) Nothing in sub-paragraph (1) shall prevent any adjustment being made to the amount referred to in (a) or, as the case may be, (b) of that sub-paragraph during the period referred to in regulation 6(6)(a) (persons not treated as in remunerative work), in order to reflect changes during that period to the amounts prescribed in Schedule 2 (applicable amounts) or Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) or in this Schedule or to reflect changes in circumstances during that period relating to the matters specified in sub-paragraph (3).

(3) The changes in circumstances referred to in sub-paragraph (2) are changes to the amount of housing costs to be met in accordance with Schedule 3 in the claimant's case occasioned by—

(a) the claimant becoming entitled to income support for a continuous period of 26 weeks or more;

(b) a change to the standard interest rate, or

(c) any non-dependant deduction becoming applicable, or ceasing to be applicable.

(4) In sub-paragraph (1), a reference to the claimant or his partner being entitled to and in receipt of an income-based jobseeker's allowance or to an amount being applicable to either of them under the Jobseeker's Allowance Regulations (Northern Ireland) 1996 shall include a reference to the claimant and his partner being entitled to, and in receipt of, a joint-claim jobseeker's allowance and to an amount being applicable to that couple under those Regulations.”.

Amendment of Schedule 8 to the Income Support Regulations

8. In Schedule 8 to the Income Support Regulations (sums to be disregarded in the calculation of earnings) after paragraph 15B(b) there shall be inserted the following paragraph—

(a) Regulation 6(6) is inserted by regulation 4 of these Regulations

(b) Paragraph 15B was inserted by regulation 2(9) of S.R. 1999 No. 381

“15C. In the case of a person to whom regulation 6(5) (persons not treated as in remunerative work) applies, any earnings.”.

Amendment of Schedule 9 to the Income Support Regulations

9. In Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 69(a) there shall be added the following paragraph—

“70. In the case of a person to whom regulation 6(5) (persons not treated as in remunerative work) applies, the whole of his income.”.

Amendment of Schedule 10 to the Income Support Regulations

10. In Schedule 10 to the Income Support Regulations (capital to be disregarded) after paragraph 57(b) there shall be added the following paragraph—

“58. In the case of a person to whom regulation 6(5) (persons not treated as in remunerative work) applies, the whole of his capital.”.

Amendment of the Social Security (Claims and Payments) Regulations

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

(2) In regulation 3(h)(d) (claims not required for entitlement to benefit in certain cases)—

(a) in sub-paragraph (i) after “regulation 6(2)” there shall be inserted “or 6(5)”;

(b) in sub-paragraph (ii), after “regulation 6(2)” there shall be inserted “or, as the case may be, regulation 6(5)”;

(c) in sub-paragraph (iii) after “regulation 6(3)” there shall be inserted “or, as the case may be, regulation 6(6)”.

(3) In Schedule 8B(e) (deductions of mortgage interest from benefit and payment to qualifying lenders) in paragraph 3—

(a) in sub-paragraph (1)(f) for “sub-paragraphs (2) to (8)” there shall be substituted “the following provisions of this paragraph”;

(b) after sub-paragraph (8) there shall be added the following sub-paragraph—

“(9) In the case of a person to whom regulation 6(5) of the Income Support Regulations (persons not treated as in remunerative work) applies, no part of any relevant benefit shall be paid directly by the Department to a qualifying lender.”.

(a) Paragraph 69 was added by regulation 2(1)(b) of S.R. 2001 No. 25

(b) Paragraph 57 was added by regulation 2(a) of S.R. 2001 No. 4

(c) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1992 No. 271, S.R. 1995 No. 301, S.R. 1996 No. 354 and S.R. 1999 Nos. 381 and 472

(d) Paragraph (h) was added by regulation 5 of S.R. 1999 No. 381

(e) Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271

(f) Sub-paragraph (1) was amended by paragraph 3(3)(a) of Schedule 2 to S.R. 1995 No. 301, regulation 2(27)(c) of S.R. 1996 No. 354 and Article 9(14) of S.R. 1999 No. 472

Amendment of the Jobseeker's Allowance Regulations

12. In the Jobseeker's Allowance Regulations (Northern Ireland) 1996^(a)—

(a) in regulation 52 (persons treated as engaged in remunerative work) paragraphs (4) to (6)^(b) shall be omitted;

(b) in paragraph 13 of Schedule 2 (housing costs: linking rules)—

(i) in sub-paragraph (1)—

(aa) in head (a)(ii)^(c), after “12 weeks or less” there shall be inserted “or, as the case may be, 52 weeks or less,”;

(bb) in head (c)(iv) after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(cc) in head (d), after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(dd) in head (f)(iii), after “12 weeks” there shall be inserted “or, as the case may be, 52 weeks,”;

(ii) in sub-paragraph (12)^(d) after “(1)(a)(ii),” there shall be inserted “(1)(c)(iv),”;

(iii) after sub-paragraph (12) there shall be added the following sub-paragraphs—

“(13) For the purposes of sub-paragraph (1)(a)(ii), (c)(iv), (d) and (f)(iii), the relevant period shall be—

(a) 52 weeks in the case of a person to whom sub-paragraph (14) applies;

(b) subject to sub-paragraph (12), 12 weeks in any other case.

(14) This sub-paragraph applies, subject to sub-paragraph (15), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to a jobseeker's allowance because he or his partner or, where that person is a member of a joint-claim couple, the other member of that couple—

(a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;

(b) is taking active steps to establish himself in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(q) (circumstances in which a person is to be treated as actively seeking employment), or

(c) is participating in—

(a) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 358, S.R. 1998 No. 324 and S.R. 1999 No. 381

(b) Paragraphs (4) to (6) were inserted by regulation 3 of S.R. 1999 No. 381

(c) Head (ii) was amended by regulation 29(5) of S.R. 1996 No. 358

(d) Sub-paragraph (12) was added by regulation 11(4) of S.R. 1998 No. 324

- (i) a New Deal option;
- (ii) the self-employment route,

and, as a consequence, he or his partner was engaged in remunerative work or failed to satisfy the conditions specified either in Article 4(1)(c) or in Article 5(1)(a) of the Order or the joint-claim couple of which he was a member failed to satisfy the condition in Article 5A(1)(a)(a) of the Order.

(15) Sub-paragraph (14) shall only apply to the extent that immediately before the day on which the person ceased to be entitled to an income-based jobseeker's allowance or the joint-claim couple of which he was a member ceased to be entitled to a joint-claim jobseeker's allowance, his housing costs were being met in accordance with paragraph 6(1)(a) or 7(1)(a) or would have been so met but for any non-dependant deduction under paragraph 17.”.

Amendment of the Social Security (Back to Work Bonus) (No. 2) Regulations

13. In the Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996**(b)**—

(a) in regulation 7 (requirements for a bonus) after paragraph (8) there shall be added the following paragraph—

“(9) For the purposes of this regulation, references to a qualifying benefit do not include any income support paid under regulation 6(6) of the Income Support Regulations (persons not treated as engaged in remunerative work).”, and

(b) in regulation 22 (claiming a bonus) after paragraph (7) there shall be added the following paragraph—

“(8) For the purposes of this regulation, references to a qualifying benefit do not include any income support paid under regulation 6(6) of the Income Support Regulations (persons not treated as engaged in remunerative work).”.

Sealed with the Official Seal of the Department for Social Development on 23rd February 2001.

(L.S.)

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

(a) Article 5A was inserted by Article 56 of and Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) S.R. 1996 No. 519; to which there are amendments not relevant to these Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996 and the Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996.

In particular, regulation 4 provides that for the purposes of entitlement to income support, a person may be treated as not engaged in remunerative work for the first two weeks, or as the case may be, four weeks, after commencing such work following a period of entitlement to income support or income-based jobseeker's allowance of at least 26 weeks. Such persons are made a prescribed category of person for the purposes of income support entitlement by regulation 5 and the applicable amount of such persons is limited to their housing costs and is prescribed in regulation 7.

These Regulations also provide that in relation to such persons—

that they shall not be required to make a claim for income support in order to be entitled to it (regulation 11(2));

that any relevant benefit payable to such persons shall not be paid to a qualifying lender (regulation 11(3));

during the two week or four week run on period, any earnings from the employment which caused the person to be treated as not engaged in remunerative work shall be disregarded (regulation 8) as is the whole of their income (regulation 9) and their capital (regulation 10);

income support paid to such persons does not qualify for the purpose of entitlement to, or claiming, a back to work bonus (regulation 13).

These Regulations also omit provisions whereby, in income support and jobseeker's allowance, a lone parent who was previously treated as not engaged in remunerative work, was so treated for a specified period if he ceases to be so engaged in such work within five weeks of commencing it (regulations 3 and 12(a)).

In addition, regulations 6 and 12(b) extend to 52 weeks, certain maximum periods which link, for the purpose of the applicability of housing costs, separate periods of benefit entitlement where a claimant has ceased to be entitled to income support or jobseeker's allowance because he or his partner has commenced work or certain training for work. Regulation 2 inserts a new definition for these purposes into the Income Support (General) Regulations (Northern Ireland) 1987.

These Regulations make in relation to Northern Ireland only provision corresponding 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 (c. 8), 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 any charge on business.

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