

STATUTORY RULES OF NORTHERN IRELAND

2002 No. 189

SOCIAL SECURITY

HOUSING; RATES

FAMILY LAW

CHILD SUPPORT

**The Social Security and Child Support (Decisions and Appeals)
(Miscellaneous Amendments) Regulations (Northern Ireland) 2002**

Made 16th May 2002

Coming into operation 20th May 2002

The Department for Social Development, in exercise of the powers conferred by Article 22(4) to (6) of the Child Support (Northern Ireland) Order 1991(a), Article 32 of, and paragraph 4 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(b), Article 13(5)(a) and (b) of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(c), Articles 7(3), 10(1), 11A(1), 13(2) and (7), 15(11), 16(1), 24A(1) and (2)(a), 28(1) and 74(1), (3), (5) and (6) of, and paragraph 12(1) of Schedule 1, paragraph 9 of Schedule 2 and paragraphs 1 to 4, 6 and 7 of Schedule 4 to, the Social Security (Northern Ireland) Order 1998(d), and now vested in it(e), and paragraphs 3(1), 6(7) and (8), 10(1), 19(1) and 20(1) and (3) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(f) and of all other powers enabling it in that behalf, with the concurrence of the Lord Chancellor in so far as the Regulations are made under Article 7(3) of the Social Security (Northern Ireland) Order 1998, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations (Northern Ireland) 2002 and shall come into operation on 20th May 2002.

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

2.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(g) shall be amended in accordance with paragraphs (2) to (21).

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

(a) in the definition of “official error”(h) for paragraph (a) there shall be substituted the following paragraph—

“(a) an officer of the Department acting as such which no person outside the Department caused or to which no person outside the Department materially contributed;” and

(a) S.I. 1991/2628 (N.I. 23); Article 22 was substituted by Article 42 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(b) S.I. 1995/2705 (N.I. 15); Article 32 was amended by paragraph 112 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and paragraph 15 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(c) S.I. 1997/1183 (N.I. 12)

(d) S.I. 1998 No. 1506 (N.I. 10); Articles 11A and 24A were inserted respectively by paragraphs 18 and 27 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and Article 13(2) was substituted by paragraph 19(3) of that Schedule

(e) See Article 8(b) of S.R. 1999 No. 481

(f) 2000 c. 4 (N.I.)

(g) S.R. 1999 No. 162; relevant amending regulations are S.R. 1999 Nos. 272 and 408, S.R. 2000 No. 215 and S.R. 2001 No. 176

(h) The definition of “official error” was substituted by paragraph 2(b) of Schedule 4 to S.R. 2001 No. 176

- (b) after the definition of “panel member with a disability qualification” there shall be inserted the following definition—
- ““partner” means—
- (a) where a person is a member of a married couple or an unmarried couple, the other member of that couple; or
 - (b) where a person is polygamously married to two or more members of his household, any such member;”.
- (3) In regulation 3 (revision of decisions)—
- (a) in paragraph (1)(a) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—
 - “(a) it commences action leading to the revision within one month of the date of notification of the original decision; or
 - (b) an application for a revision is received by it at the appropriate office—
 - (i) subject to regulation 9A(3), within one month of the date of notification of the original decision,
 - (ii) where a written statement is requested under regulation 28(1)(b) and is provided within the period specified in head (i), within 14 days of the expiry of that period,
 - (iii) where a written statement is requested under regulation 28(1)(b) and is provided after the period specified in head (i), within 14 days of the date on which the statement is provided, or
 - (iv) within such longer period as may be allowed under regulation 4.”;
 - (b) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Where there is an appeal against an original decision within the time prescribed in regulation 31 or, in a case to which regulation 32 applies, within the time prescribed in that regulation, but the appeal has not been determined, the original decision may be revised at any time.”;
 - (c) after paragraph (5) there shall be inserted the following paragraph—

“(5A) Where—

 - (a) the Department makes a decision under Article 9 or 11, or that decision is revised under Article 10, in respect of a claim or award (“decision A”) and the claimant appeals against decision A;
 - (b) decision A is superseded or the claimant makes a further claim which is decided (“decision B”) after he made the appeal but before the appeal results in a decision by an appeal tribunal (“decision C”); and
 - (c) the Department would have made decision B differently if it had been aware of decision C at the time it made decision B,

decision B may be revised at any time.”; and
 - (d) after paragraph (7)(b) there shall be inserted the following paragraph—

“(7A) Where a decision as to a claimant’s entitlement to a disablement pension under section 103 of the Contributions and Benefits Act is revised by the Department, or changed on appeal, a decision of the Department as to the claimant’s entitlement to reduced earnings allowance under paragraph 11 or 12 of Schedule 7 to that Act may be revised at any time provided that the revised decision is more advantageous to the claimant than the original decision.”.
- (4) After regulation 9 (certificates of recoverable benefits) there shall be inserted the following regulation—
- “Correction of accidental errors**
- 9A.—**(1) Accidental errors in a decision of the Department under a relevant statutory provision within the meaning of Article 28(3), or in the record of such a decision, may be corrected by the Department at any time.

(a) Paragraph (1) was amended by regulation 3(2)(a) of S.R. 1999 No. 408

(b) Paragraph (7) was substituted by regulation 6(3) of S.R. 2000 No. 215

(2) A correction made to, or to the record of, a decision shall be deemed to be part of that decision, or of that record, and the Department shall give a written notice of the correction to the claimant as soon as practicable.

(3) In calculating the time within which an application can be made under regulation 3(1)(b) for a decision to be revised, or the time within which an appeal may be brought under regulation 31(1), there shall be disregarded any day falling before the date on which notice was given of a correction of the decision, or to the record thereof, under paragraph (2).”

(5) In regulation 11A(2)(a) (issues for decision by officers of the Inland Revenue)—
(a) in sub-paragraph (b) after “supersession” there shall be inserted “or an appeal”; and
(b) in sub-paragraph (c) for “consideration of the application” there shall be substituted “receipt of the application or appeal”.

(6) After regulation 14 (effect of alteration in the component rates of income support and jobseeker’s allowance) there shall be inserted the following regulation—

“Termination of award of income support or jobseeker’s allowance

14A.—(1) This regulation applies in a case where an award of income support or a jobseeker’s allowance (“the existing benefit”) exists in favour of a person and, if that award did not exist and a claim was made by that person or his partner for a jobseeker’s allowance or, as the case may be, income support (“the alternative benefit”), an award of the alternative benefit would be made on that claim.

(2) In a case to which this regulation applies, if a claim for the alternative benefit is made, the Department may bring to an end the award of the existing benefit if it is satisfied that an award of the alternative benefit will be made on that claim.

(3) Where the Department brings an award of the existing benefit to an end, it shall do so with effect from the day preceding the first day on which an award of the alternative benefit takes effect.

(4) Where an award of a jobseeker’s allowance is made in accordance with the provisions of this regulation, paragraph 4 of Schedule 1 to the Jobseekers Order shall not apply.”

(7) In regulation 25 (other persons with a right of appeal) for paragraph (a) there shall be substituted the following paragraph—

“(a) any person appointed by the Department—

- (i) under regulation 30(1) of the Claims and Payments Regulations to proceed with the claim of a person who has made a claim for benefit and subsequently died,
- (ii) to claim benefit on behalf of a deceased person and who makes a claim under regulation 30(5) and (6)(b) of those Regulations,
- (iii) to claim reduced earnings allowance or disablement benefit on behalf of a deceased person and who makes a claim under regulation 30(6A) and (6B)(c) of those Regulations, and
- (iv) under regulation 33(1) of those Regulations to act on behalf of another;”.

(8) In regulation 31(1) (time within which appeals are to be brought) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) subject to regulation 9A(3), one month of the date of notification of the decision against which the appeal is brought;
- (b) where a written statement of the reasons for that decision is requested and is provided within the period specified in sub-paragraph (a), 14 days of the expiry of that period; or
- (c) where a written statement of the reasons for that decision is requested and is provided after the period specified in sub-paragraph (a), 14 days of the date on which the statement is provided.”.

(a) Regulation 11A was inserted by regulation 2(3) of S.R. 1999 No. 272

(b) Paragraph (5) was amended by regulation 3(6) of S.R. 1988 No. 369, regulation 7(5)(a) of S.R. 1990 No. 398, regulation 15 of S.R. 1992 No. 7 and regulation 2(15) of S.R. 1996 No. 354 and paragraph (6) was amended by regulation 3(7)(a) of S.R. 1993 No. 375

(c) Paragraphs (6A) and (6B) were inserted by regulation 7(5)(b) of S.R. 1990 No. 398 and paragraph (6B) was amended by regulation 3(7)(a) of S.R. 1993 No. 375 and regulation 2(5) of S.R. 1994 No. 345

- (9) In regulation 32 (late appeals)—
- (a) in paragraph (2) at the end there shall be added “, except where the Department considers that the conditions in paragraphs (4)(b) to (8) are satisfied, it may grant the application”;
- (b) for paragraph (4) there shall be substituted the following paragraph—
- “(4) An application for an extension of time shall not be granted unless—
- (a) the legally qualified panel member is satisfied that, if the application is granted, there are reasonable prospects that the appeal will be successful; or
- (b) the legally qualified panel member or, as the case may be, the Department is satisfied that it is in the interests of justice for the application to be granted.”;
- (c) in paragraph (5)—
- (i) after “panel member” there shall be inserted “or, as the case may be, the Department”, and
- (ii) for “application to be made” there shall be substituted “appeal to be made”;
- (d) in paragraph (6)(a) for “spouse” there shall be substituted “partner”; and
- (e) in paragraph (7) for “the legally qualified panel member shall have regard” there shall be substituted “regard shall be had”.
- (10) In regulation 33 (making of appeals and applications)—
- (a) for paragraph (6) there shall be substituted the following paragraph—
- “(6) Where a person to whom a form is returned, or from whom further particulars are requested, duly completes and returns the form or sends the further particulars, and the form is, or, as the case may be, the particulars are, received by the Department within—
- (a) 14 days of the date on which the form was returned to him by the Department, the time for making the appeal shall be extended by 14 days from the date on which the form was returned;
- (b) 14 days of the date on which the Department’s request was made, the time for making the appeal shall be extended by 14 days from the date of the request; or
- (c) such longer period as the Department may direct, the time for making the appeal shall be extended by a period equal to that longer period directed by the Department.”; and
- (b) in paragraph (9)(a) after “the appellant” there shall be inserted “or an authorised representative of the appellant”.
- (11) In regulation 38A(1)(b) (appeals raising issues for decision by officers of the Inland Revenue)—
- (a) for “, on consideration of any appeal, it appears to an appeal tribunal” there shall be substituted “a person has appealed to an appeal tribunal and it appears to the tribunal, or a legally qualified panel member,”; and
- (b) after “Board, the tribunal” there shall be inserted “or, as the case may be, the legally qualified panel member”.
- (12) Regulation 47(c) (reinstatement of struck out appeals) shall be renumbered paragraph (2) of regulation 47 and immediately before that paragraph there shall be inserted the following paragraph—
- “(1) The clerk to the appeal tribunal may reinstate an appeal which has been struck out in accordance with regulation 46(1)(c) where—
- (a) the appellant has made representations or, as the case may be, further representations to him in support of his appeal with reasons why he considers that his appeal should not have been struck out;

(a) Paragraph (9) was added by regulation 6(10) of S.R. 2000 No. 215
(b) Regulation 38A was inserted by regulation 2(4) of S.R. 1999 No. 272
(c) Regulation 47 was amended by regulation 6(13) of S.R. 2000 No. 215

- (b) the representations are made in writing within one month of the order to strike out the appeal being issued; and
- (c) the clerk to the appeal tribunal is satisfied in the light of those representations that there are reasonable grounds for reinstating the appeal,

but if the clerk to the appeal tribunal is not satisfied that there are reasonable grounds for reinstatement a legally qualified panel member shall consider whether the appeal should be reinstated in accordance with paragraph (2).”.

(13) In regulation 49 (procedure at oral hearings)—

(a) for paragraphs (6) and (7) there shall be substituted the following paragraphs—

“(6) An oral hearing shall be in public except where the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that it is necessary to hold the hearing, or part of the hearing, in private—

- (a) in the interests of national security, morals, public order or children;
- (b) for the protection of the private or family life of one or more parties to the proceedings; or
- (c) in special circumstances, because publicity would prejudice the interests of justice.

(7) At an oral hearing—

- (a) any party to the proceedings shall be entitled to be present and be heard; and
- (b) the following persons may be present by means of a live television link—
 - (i) any party to the proceedings or his representative or both, or
 - (ii) where an appeal tribunal consists of more than one member, a tribunal member other than the chairman,

provided that the chairman or, in the case of an appeal tribunal which has only one member, that member, gives permission and the appellant consents.”;

(b) in paragraph (9)(d) “and the consent of every party to the proceedings actually present,” shall be omitted;

(c) for paragraph (10)(a) there shall be substituted the following paragraph—

“(10) Nothing in paragraph (9) affects the rights of—

- (a) any person mentioned in sub-paragraphs (a) and (b) of that paragraph where he is sitting as a member of the tribunal or acting as its clerk; or
- (b) the clerk to the appeal tribunal,

and nothing in this regulation prevents the presence at an oral hearing of any witness 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 appeal tribunal or the clerk.”; and

(d) after paragraph (12) there shall be added the following paragraph—

“(13) In this regulation “live television link” means a live television link or other facilities which allow a person who is not physically present at an oral hearing to see and hear the proceedings and to be seen and heard by those physically present.”.

(14) In regulation 51 (postponement and adjournment) paragraph (5) shall be omitted.

(15) In regulation 53(4)(b) (decisions of appeal tribunals)—

- (a) for “chairman or, in the case of an appeal tribunal which has only one member, to that member,” there shall be substituted “clerk to the appeal tribunal”; and
- (b) for “as the case may be, that member” there shall be substituted “in the case of a tribunal which has only one member, that member,”.

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

- (a) in paragraph (6)(a) for “spouse” there shall be substituted “partner”;
- (b) in paragraph (10) for “decision” there shall be substituted “determination”;
- (c) in paragraph (11) for “decision is made a copy of the decision” there shall be substituted “determination is made notice of the determination”;

(a) Paragraph (10) was amended by regulation 6(14) of S.R. 2000 No. 215
 (b) Paragraph (4) was amended by regulation 6(15)(b) of S.R. 2000 No. 215

- (d) in paragraph (12)—
- (i) for “a copy of the decision may, within one month of the decision” there shall be substituted “notice of the determination may, within one month of the determination”, and
 - (ii) for “that decision” there shall be substituted “that determination”; and
- (e) in paragraph (12A)(b)(a) at the end there shall be added “, except where the decision was not set aside because of a refusal to extend the time for applying”.
- (17) In regulation 57 (setting aside decisions on certain grounds)—
- (a) 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 “that member”; and
 - (b) in paragraph (10)(a)(b) for “spouse” there shall be substituted “partner”.
- (18) In regulation 57A(1)(c) (provisions common to regulations 56 and 57) for the words from “notice was given of a correction of a decision” to the end there shall be substituted “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, except where the decision was not set aside because of a refusal to extend the time for applying.”.
- (19) In regulation 58 (application for leave to appeal to a Commissioner from an appeal tribunal)—
- (a) in paragraph (1)—
 - (i) after “under” there shall be inserted “Article 15 of the Recovery of Benefits Order or under”, and
 - (ii) in sub-paragraph (a) for “made within the period of one month commencing on the date the applicant is sent” there shall be substituted “sent to the clerk to the appeal tribunal within the period of one month of the date of the applicant being sent”;
 - (b) paragraph (3) shall be omitted;
 - (c) for paragraph (4) there shall be substituted the following paragraph—

“(4) A person determining an application for leave to appeal to a Commissioner shall record his determination in writing and send a copy to every party to the proceedings.”; and
 - (d) for paragraph (6)(d) there shall be substituted the following paragraph—

“(6) Where an application for leave to appeal against a decision of an appeal tribunal is made—

 - (a) if the person who constituted, or was the chairman of, the appeal tribunal when the decision was made was a fee-paid legally qualified panel member, the application may be determined by a salaried legally qualified panel member; or
 - (b) if it is impracticable, or it would be likely to cause undue delay, for the application to be determined by whoever constituted, or was the chairman of, the appeal tribunal when the decision was made, the application may be determined by another legally qualified panel member.”.
- (20) In Schedule 1 (decisions against which no appeal lies) for paragraph 5(e) (claims and payments) there shall be substituted the following paragraph—
- “5. A decision of the Department under the following provisions of the Claims and Payments Regulations—
- (a) regulation 4(f) (as to the making of a claim for benefit);

(a) Paragraph (12A) was inserted by regulation 6(16)(b) of S.R. 2000 No. 215
 (b) Paragraph (10) was added by regulation 6(18)(b) of S.R. 2000 No. 215
 (c) Regulation 57A was inserted by regulation 6(19) of S.R. 2000 No. 215
 (d) Paragraph (6) was amended by regulation 6(20) of S.R. 2000 No. 215
 (e) Paragraph 5 was amended by S.R. 2000 No. 215
 (f) Regulation 4 was amended by S.R. 1992 Nos. 7 and 83, S.R. 1996 Nos. 354 and 449, S.R. 1997 No. 156, S.R. 2000 No. 365 and S.R. 2001 Nos. 175 and 176

- (b) regulation 4A(3)(a) (as to the sufficiency of a claim made to a relevant office where it is not made on the approved form);
- (c) regulation 6(4AA), (8) and (9)(b) (as to the date of claim);
- (d) regulation 7(c) (as to evidence and information required);
- (e) regulation 9(d) and Schedule 1 (as to the interchange of claims with claims for other benefits);
- (f) regulation 11(e) (as to the treatment of a claim for maternity allowance as a claim for incapacity benefit);
- (g) regulation 15(7)(f) (as to the form of particulars required for determination of retirement pension questions in advance of claim);
- (h) regulations 20 to 24(g) (as to the time and manner of payments);
- (i) regulation 25(1)(h) (as to the intervals of payment of attendance allowance and disability living allowance where the claimant is expected to return to hospital);
- (j) regulation 26(i) (as to the time and manner of payment of income support);
- (k) regulation 26A(j) (as to the time and manner of payment of jobseeker's allowance);
- (l) regulation 30(k) (as to claims or payments on the death of a person);
- (m) regulation 30A(l) (as to the payment of arrears of joint-claim jobseeker's allowance where the nominated person can no longer be traced);
- (n) regulation 31(m) (as to the time and manner of payments of industrial injuries gratuities);
- (o) regulation 32(n) (as to information to be given when obtaining payment of benefit);
- (p) regulation 33(o) (as to appointments where a person is unable to act);
- (q) regulation 34(p) (as to payment to another person on the beneficiary's behalf);
- (r) regulation 34ZA(1)(q) (as to payment of mortgage interest to qualifying lenders);
- (s) regulation 34A(2)(r) (as to payment to a third person of maternity expenses or expenses for heating in cold weather);
- (t) regulation 35(s) (as to payment to a partner as alternative payee);
- (u) regulation 37(t) (as to the extinguishment of right to payment where payment is not obtained within prescribed period) other than a decision under paragraph (2A) of that regulation;

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- (a) Regulation 4A was inserted by S.R. 2001 No. 175
 - (b) Paragraph (4AA) was substituted by S.R. 2000 No. 365, paragraph (8) was added by S.R. 1992 No. 7 and amended by S.R. 1993 No. 375 and paragraph (9) was inserted by S.R. 1993 No. 375 and amended by S.R. 1994 No. 345
 - (c) Regulation 7 was amended by S.R. 1992 No. 7, S.R. 1995 No. 367, S.R. 1996 No. 354 and S.R. 2001 No. 175
 - (d) Regulation 9 was amended by S.R. 1992 No. 83 and S.R. 1996 No. 288
 - (e) Regulation 11 was amended by S.R. 1994 No. 456 and S.R. 1997 No. 156
 - (f) Paragraph (7) was amended by S.R. 1989 No. 373
 - (g) Regulation 20 was amended by S.R. 1994 No. 484, regulation 20A was inserted by S.R. 1994 No. 484 and amended by S.R. 1996 No. 85, regulation 21 was amended by S.R. 1992 No. 83, S.R. 1993 No. 217, S.R. 1994 No. 345, S.R. 1996 No. 85, S.R. 1999 No. 365 and S.R. 2000 No. 365, regulation 22 was amended by S.R. 1992 No. 7, S.R. 1994 No. 484 and S.R. 1996 No. 432, regulation 23 was amended by S.R. 1994 No. 484 and S.R. 1999 No. 365 and regulation 24 was amended by S.R. 1994 No. 456, S.R. 1996 No. 354 and S.R. 2000 No. 404
 - (h) Paragraph (1) was amended by S.R. 1992 No. 7 and S.R. 1996 No. 225
 - (i) Regulation 26 was amended by S.R. No. 1988 No. 141, S.R. 1989 No. 40, S.R. 1993 No. 217, S.R. 1999 No. 472 (C. 36) and S.R. 2000 No. 215
 - (j) Regulation 26A was inserted by S.R. 1996 No. 354 and amended by S.R. 2000 No. 215
 - (k) Regulation 30 was amended by S.R. 1988 No. 369, S.R. 1990 No. 398, S.R. 1992 No. 7, S.R. 1993 No. 375, S.R. 1994 No. 345, S.R. 1996 No. 354 and S.R. 2000 No. 365
 - (l) Regulation 30A was inserted by S.R. 2001 No. 120
 - (m) Regulation 31 was amended by S.R. 1999 No. 472 (C. 36)
 - (n) Regulation 32 was amended by S.R. 1992 No. 453, S.R. 1995 No. 367, S.R. 1996 No. 354 and S.R. 2001 No. 175
 - (o) Regulation 33 was amended by S.R. 1992 No. 7
 - (p) Regulation 34 was amended by S.R. 1992 No. 453 and S.R. 2000 No. 365
 - (q) Regulation 34ZA was inserted by regulation 2 of S.R. 1992 No. 271
 - (r) Regulation 34A was inserted by S.R. 1988 No. 67 and paragraph (2) was inserted by S.R. 1988 No. 141 and amended by S.R. 1988 No. 369
 - (s) Regulation 35 was amended by S.R. 1999 No. 365
 - (t) Regulation 37 was amended by S.R. 1989 No. 398, S.R. 1993 No. 375, S.R. 1996 No. 85 and S.R. 1999 No. 472 (C. 36)

- (v) regulations 41 to 45(a) (as to the mobility component of disability living allowance and disability living allowance for children); and
 - (w) regulation 46(2) and (3)(b) (as to the return of instruments of payment, etc.).”.
- (21) In Schedule 2 (qualifications of persons appointed to the panel) in paragraph 3 after sub-paragraph (c) there shall be inserted the following sub-paragraph—
- “(cc) the Institute of Certified Public Accountants in Ireland;”.

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

3.—(1) The Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(c) shall be amended in accordance with paragraphs (2) to (7).

- (2) In regulation 1(2) (interpretation)—
 - (a) in the definition of “financially qualified panel member” after paragraph (c) there shall be inserted the following paragraph—

“(cc) the Institute of Certified Public Accountants in Ireland;”;
 - (b) in the definition of “official error” in paragraph (b) sub-paragraph (iii) and the word “or” preceding it shall be omitted.
- (3) In regulation 4(1)(a) (revision of decisions) at the beginning there shall be inserted “subject to regulation 10A(3).”.
- (4) After regulation 10 (notice of a decision against which an appeal lies) there shall be inserted the following regulation—

“Correction of accidental errors

- 10A.**—(1) Accidental errors in a relevant decision or a revised decision, or in the record of such a decision, may be corrected by the relevant authority at any time.
- (2) A correction made to a relevant decision or a revised decision, or to the record of such a decision, shall be deemed to be part of that decision, or of that record, and the relevant authority shall give a written notice of the correction to the claimant as soon as practicable.
- (3) In calculating the time within which an application can be made under regulation 4(1)(a) for a relevant decision to be revised, or the time within which an appeal may be brought under regulation 18(1), there shall be disregarded any day falling before the date on which notice was given of a correction of the decision, or to the revision or record thereof, under paragraph (2).”.
- (5) In regulation 18(1) (time within which an appeal is to be brought) for “regulation” there shall be substituted “regulations 10A(3) and”.
- (6) In regulation 19 (late appeals)—
 - (a) in paragraph (3) at the end there shall be added “, except where the relevant authority considers that the conditions in paragraphs (5)(b) to (9) are satisfied it may grant the application”;
 - (b) for paragraph (5) there shall be substituted the following paragraph—

“(5) An application for an extension of time shall not be granted unless—

 - (a) the panel member is satisfied that, if the application is granted, there are reasonable prospects that the appeal will be successful; or
 - (b) the panel member or, as the case may be, the relevant authority is satisfied that it is in the interests of justice for the application to be granted.”;
 - (c) in paragraph (6) after “panel member” there shall be inserted “or, as the case may be, the relevant authority”; and
 - (d) in paragraph (8) for “the panel member shall have regard” there shall be substituted “regard shall be had”.
 - (7) In regulation 23 (procedure in connection with appeals)—
 - (a) in paragraph (1) for “in operation on the date these Regulations are made” there shall be substituted “amended by the Social Security and Child Support (Decisions

(a) Regulations 41, 44 and 45 were amended by S.R. 1992 No. 7, regulation 42 was amended by S.R. 1992 No. 7 and S.R. 1994 No. 65 and regulation 43 was amended by S.R. 1990 No. 398 and S.R. 1992 No. 7

(b) Regulation 46 was substituted by S.R. 1994 No. 484

(c) S.R. 2001 No. 213

and Appeals) (Miscellaneous Amendments) Regulations (Northern Ireland) 2002”;
and

(b) in paragraph (3)(f)(i)—

(i) for “Articles 13 and 14” there shall be substituted “Article 13 or 14”; and

(ii) for “paragraphs 6 and 7” there shall be substituted “paragraph 6 or 7”.

Revocations

4. Regulation 3(2)(a) of the Social Security and Child Support (Decisions and Appeals) and Jobseeker’s Allowance (Amendment) Regulations (Northern Ireland) 1999^(a) and regulation 6(14), (20) and (21)(a) of the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2000^(b) are hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 16th May 2002.

(L.S.)

John O’Neill

Senior Officer of the Department for Social Development

I concur.

Irvine of Lairg, C.

20th May 2002

(a) S.R. 1999 No. 408
(b) S.R. 2000 No. 215

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the 1999 Regulations”) and the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 (“the 2001 Regulations”).

Regulation 2 amends the 1999 Regulations to—

- make further provision for the revision of decisions;
- provide for the correction of accidental errors in a decision of the Department for Social Development (“the Department”);
- provide for the interaction of awards of income support and jobseeker’s allowance;
- provide for a person appointed after the death of a claimant to be added to the list of prescribed persons who may appeal;
- clarify the time limits for making an appeal;
- provide for the Department to grant an extension of time for an appeal in specified circumstances;
- provide for the clerk to the appeal tribunal to reinstate an appeal if he has struck it out because the appellant failed to comply with a direction concerning an oral hearing;
- provide for oral hearings to be in public except in specified circumstances and for participation in oral hearings by means of a live television link;
- remove rules about the constitution of an appeal tribunal after an adjournment;
- require an application for a statement of an appeal tribunal’s reasons to be sent to the clerk to the appeal tribunal;
- provide that the death or serious illness of the appellant’s partner is a reason for granting further time for the appellant to take procedural steps;
- clarify the provisions governing applications for leave to appeal to the Social Security Commissioners; and
- specify decisions of the Department under the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 against which there is no appeal.

Regulation 3 amends the 2001 Regulations to provide—

- for the correction of accidental errors in a decision of a relevant authority;
- for a relevant authority to grant an extension of time for an appeal in specified circumstances; and
- that the 1999 Regulations as amended by regulation 2(12) to (19) of these Regulations apply in relation to housing benefit.

Regulation 4 makes consequential revocations.

These Regulations correspond 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.

These Regulations do not impose a charge on business.

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