

2002 No. 295

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments No. 2)
Regulations (Northern Ireland) 2002**

Made - - - - - *19th September 2002*

Coming into operation *14th October 2002*

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(a) and (d), 132(4)(b) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and Article 14(4)(b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(b) and now vested in it(c), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(d), in so far as regulation 3 is concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of that regulation should not be referred to it(e), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2002 and shall come into operation on 14th October 2002.

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

Amendment of capital disregard provisions for income support

2. In paragraph 7 of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987(g) (capital to be disregarded) –

(a) in sub-paragraph (a) for “, 9 or 9A” there shall be substituted “or 9”;

(b) at the beginning there shall be inserted “—(1) Subject to sub-paragraph (2),” and at the end there shall be added the following sub-paragraphs –

“(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is –

(a) 1992 c. 7

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

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

(d) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481

(e) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

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

(g) S.R. 1987 No. 459; paragraph 7 was amended by regulation 10(7) of S.R. 1992 No. 6, regulation 26 of S.R. 1996 No. 199 and regulation 2(2)(b) of S.R. 2001 No. 261

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(a), and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from, and including, the date of receipt, or, if the relevant sum is received in its entirety during the award of income support, for the remainder of that award if that is a longer period.

- (3) For the purposes of sub-paragraph (2) “the award of income support” means –
 - (a) the award either of income support or of an income-based jobseeker’s allowance in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
 - (b) where that award is followed by one or more further awards which in each case may be either of income support or of an income-based jobseeker’s allowance and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant –
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death, or
 - (iii) in the case of a joint-claim jobseeker’s allowance, is a joint-claim couple either member or both members of which received the relevant sum.”.

Amendment of capital disregard provisions for housing benefit

3. In paragraph 8 of Schedule 5 to the Housing Benefit (General) Regulations (Northern Ireland) 1987(b) (capital to be disregarded) at the beginning there shall be inserted “—(1) Subject to sub-paragraph (2),” and at the end there shall be added the following sub-paragraphs –

“(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is –

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations(c), and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from, and including, the date of receipt, or, if the relevant sum is received in its entirety during the award of housing benefit, for the remainder of that award if that is a longer period.

- (3) For the purposes of sub-paragraph (2), “the award of housing benefit” means –
 - (a) the benefit period in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
 - (b) where that period is followed by one or more further benefit periods which, or each of which, begins immediately after the end of the previous benefit period, such further benefit periods until the end of the last such benefit period, provided that for any such further benefit periods the claimant –
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.”.

(a) S.R. 1999 No. 162; the definition of “official error” was substituted by paragraph 2(b) of Schedule 4 to S.R. 2001 No. 176 and amended by regulation 2(2)(a) of S.R. 2002 No. 189
 (b) S.R. 1987 No. 461; paragraph 8 was amended by regulation 21(b) of S.R. 1996 No. 334 and regulation 2(2)(a) of S.R. 2001 No. 261
 (c) S.R. 2001 No. 213; the definition of “official error” was amended by regulation 3(2)(b) of S.R. 2002 No. 189

Amendment of capital disregard provisions for jobseeker's allowance

4. In paragraph 12 of Schedule 7 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(a) (capital to be disregarded) at the beginning there shall be inserted “—(1) Subject to sub-paragraph (2),” and at the end there shall be added the following sub-paragraphs –

“(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is –

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations, and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from, and including, the date of receipt, or, if the relevant sum is received in its entirety during the award of an income-based jobseeker's allowance, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2) “the award of an income-based jobseeker's allowance” means –

- (a) the award either of an income-based jobseeker's allowance or of income support in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
- (b) where that award is followed by one or more further awards which in each case may be either of an income-based jobseeker's allowance or of income support and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant –
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death, or
 - (iii) in the case of a joint-claim jobseeker's allowance, is a joint-claim couple either member or both members of which received the relevant sum.”.

Sealed with the Official Seal of the Department for Social Development on 19th September 2002.

(L.S.)

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

The Department of Finance and Personnel hereby consents to regulation 3 of the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 23rd September 2002.

(L.S.)

N. Taylor
Senior Officer of the Department of Finance and Personnel

(a) S.R. 1996 No. 198; paragraph 12 was amended by regulation 2(21) of S.R. 1996 No. 503 and regulation 2(2)(c) of S.R. 2001 No. 261

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987, the Housing Benefit (General) Regulations (Northern Ireland) 1987 and the Jobseeker's Allowance Regulations (Northern Ireland) 1996.

In particular, regulations 2, 3 and 4 amend the capital disregard provisions that apply when ascertaining entitlement to those benefits so that the disregard of specified arrears and concessionary payments will apply for either 52 weeks or, where large payments are made to rectify an official error and are paid during the benefit award, for the remainder of that award (as defined) if that is a longer period. Regulation 2 also makes a technical amendment to paragraph 7 of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987.

In so far as these Regulations are required, for the purposes of regulation 3, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, ("the 1992 Act"), after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the 1992 Act, 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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