

2002 No. 79

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Loss of Benefit) Regulations
(Northern Ireland) 2002**

Made 6th March 2002

Coming into operation 1st April 2002

Approved by resolution of the Assembly on 20th May 2002

The Department for Social Development, in exercise of the powers conferred by Article 74(3) to (6) of, and paragraph 9 of Schedule 2 to, the Social Security (Northern Ireland) Order 1998(a) and now vested in it(b), and sections 6(3) to (6), 7(3) and (4), 8(2) to (5) and 9(1) and (2) of the Social Security Fraud Act (Northern Ireland) 2001(c) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made by virtue of, or consequential upon, that Act, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 and shall come into operation on 1st April 2002.

(2) In these Regulations—

“the Act” means the Social Security Fraud Act (Northern Ireland) 2001;

“the Employment and Training Act” means the Employment and Training Act (Northern Ireland) 1950(d);

“the Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(e);

“the Children Order” means the Children (Northern Ireland) Order 1995(f);

“the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995(g);

(a) S.I. 1998/1506 (N.I. 10)
(b) See Article 8(b) of S.R. 1999 No. 481
(c) 2001 c. 17 (N.I.)
(d) 1950 c. 29 (N.I.)
(e) 1992 c. 7
(f) S.I. 1995/755 (N.I. 2)
(g) S.I. 1995/2705 (N.I. 15)

“an authority” has the same meaning as in Article 2 of the Children Order;
 “claimant” in a regulation means the person claiming the sanctionable benefit referred to in that regulation;
 “disqualification period” means the period in respect of which the restrictions on payment of a relevant benefit apply in respect of an offender in accordance with section 6(6) of the Act and shall be interpreted in accordance with regulation 2;
 “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(a);
 “the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b);
 “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(c); and
 “offender” means the person who is subject to the restriction in the payment of his benefit in accordance with section 6 of the Act.

(3) Expressions used in these Regulations which are defined either for the purposes of the Jobseekers Order or the Jobseeker’s Allowance Regulations shall have the same meaning as for the purposes of that Order or, as the case may be, those Regulations.

Disqualification period

2.—(1) Subject to paragraph (2), the first day of the disqualification period for the purposes of section 6(6) of the Act shall be—

- (a) subject to sub-paragraph (c) where, on the determination day—
 - (i) the offender is in receipt of a sanctionable benefit;
 - (ii) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker’s allowance, or
 - (iii) the offender’s family member is in receipt of income support, jobseeker’s allowance or housing benefit,
 the day which is 28 days after the determination day;
- (b) where sub-paragraph (a) does not apply, the day which is 28 days after the first day after the determination day on which the Department decides to award—
 - (i) a sanctionable benefit to the offender;
 - (ii) a joint-claim jobseeker’s allowance to a joint-claim couple of which the offender is a member, or
 - (iii) income support or jobseeker’s allowance ;

(a) S.R. 1987 No. 461; relevant amending rules are S.R. 1998 No. 73 and S.R. 2001 No. 41
 (b) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 No. 318, S.R. 1990 No. 213, S.R. 1993 No. 149, S.R. 1996 No. 199, S.R. 1999 No. 371 (C. 28), S.R. 2000 Nos. 4 and 105 and S.R. 2001 No. 41
 (c) S.R. 1996 No. 198; relevant amending rules are S.R. 1996 No. 503, S.R. 1999 No. 385, S.R. 2000 No. 350 and S.R. 2001 Nos. 41 and 120

(c) where the only sanctionable benefit which the offender or, as the case may be, the offender's family member, is in receipt of is housing benefit, the day which is 28 days after the first day after the determination day on which the Department is notified by the relevant authority that the offender or an offender's family member is in receipt of that benefit or, as the case may be, has been awarded that benefit and in this sub-paragraph "relevant authority" means the relevant authority administering the offender's or the offender's family member's housing benefit.

(2) For the purposes of paragraph (1), the first day of the disqualification period shall be no later than 3 years and 28 days after the date of the conviction of the offender for the benefit offence in the later proceedings referred to in section 6(1) of the Act and section 6(9) of the Act (date of conviction and references to conviction) shall apply for the purposes of this paragraph as it applies for the purposes of section 6 of the Act.

(3) In this regulation, "the determination day" means the day on which the Department determines that a restriction under—

- (a) section 6 of the Act would be applicable to the offender were he in receipt of a sanctionable benefit;
- (b) section 7 of the Act would be applicable to the offender were he a member of a joint-claim couple which is in receipt of a joint-claim jobseeker's allowance; or
- (c) section 8 of the Act would be applicable to the offender's family member were that member in receipt of income support, jobseeker's allowance or housing benefit.

PART II

REDUCTIONS

Reduction of income support

3.—(1) Subject to paragraphs (2) to (4), any payment of income support which falls to be made to an offender in respect of any week in the disqualification period, or to an offender's family member in respect of any week in the relevant period, shall be reduced—

- (a) where the claimant or a member of his family is pregnant or seriously ill, by a sum equivalent to 20 per cent.;
- (b) where the applicable amount of the offender used to calculate that payment of income support has been reduced pursuant to regulation 22A of the Income Support Regulations^(a) (appeal against a decision embodying an incapacity for work determination), whether or not the appeal referred to in that regulation is successful, by a sum equivalent to 20 per cent.;

^(a) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199 and amended by Article 9(2) of S.R. 1999 No. 371 (C. 28), regulation 4(2)(a) of S.R. 2000 No. 4 and regulation 2 of S.R. 2000 No. 105

(c) in any other case, by a sum equivalent to 40 per cent., of the applicable amount of the offender in respect of a single claimant for income support on the first day of the disqualification period or, as the case may be, on the first day of the relevant period, and specified in paragraph 1(1) of Schedule 2 to the Income Support Regulations(a).

(2) Payment shall not be reduced under paragraph (1) to below 10 pence per week.

(3) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(4) A payment of income support shall not be reduced as provided in paragraph (1) in respect of any week in the disqualification period in respect of which that payment of income support is subject to a restriction imposed pursuant to section 53 or 54 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (loss of benefit provisions)(b).

(5) Where the rate of income support payable to an offender or an offender's family member changes, the rules set out in paragraphs (1) to (4) for a reduction in the benefit payable shall be applied to the new rate and any adjustment to the reduction shall take effect from the beginning of the first benefit week to commence following the change.

(6) In this regulation "benefit week" shall have the same meaning as in regulation 2(1) of the Income Support Regulations(c).

Reduction of joint-claim jobseeker's allowance

4. In respect of any part of the disqualification period when section 7(2) of the Act does not apply, the reduced rate of joint-claim jobseeker's allowance payable to the member of that couple who is not the offender shall be—

- (a) in any case in which the member of the couple who is not the offender satisfies the conditions set out in Article 4 of the Jobseekers Order (contribution-based conditions), a rate equal to the amount calculated in accordance with Article 6(1) of that Order;
- (b) in any case where the couple are a couple in hardship for the purposes of regulation 11, a rate equal to the amount calculated in accordance with regulation 16;
- (c) in any other case, a rate calculated in accordance with Article 6(3A) of the Jobseekers Order(d) save that the applicable amount shall be the amount determined by reference to paragraph 1(1) of Schedule 1 to the Jobseeker's Allowance Regulations(e) as if the member of the couple who is not the offender were a single claimant.

(a) The amounts in paragraph 1(1) of Schedule 2 were substituted by S.R. 2001 No. 41

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

(c) The definition of "benefit week" was amended by regulation 2(a) of S.R. 1988 No. 318

(d) Paragraph (3A) was inserted by Article 56 of, and paragraph 6(3) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(e) The amounts in paragraph 1(1) of Schedule 1 were substituted by S.R. 2001 No. 41

PART III

HARDSHIP

Meaning of “person in hardship”

5.—(1) In this Part, a “person in hardship” means, for the purposes of regulation 6, a person, other than a person to whom paragraph (3) or (4) applies, where—

- (a) she is a single woman who is pregnant and in respect of whom the Department is satisfied that, unless a jobseeker’s allowance is paid, she will suffer hardship;
- (b) he is a single person who is responsible for a young person and the Department is satisfied that, unless a jobseeker’s allowance is paid, the young person will suffer hardship;
- (c) he is a member of a married or unmarried couple where—
 - (i) the woman is pregnant, and
 - (ii) the Department is satisfied that, unless a jobseeker’s allowance is paid, the woman will suffer hardship;
- (d) he is a member of a polygamous marriage and—
 - (i) one member of the marriage is pregnant, and
 - (ii) the Department is satisfied that, unless a jobseeker’s allowance is paid, that woman will suffer hardship;
- (e) he is a member of a married or unmarried couple or of a polygamous marriage where—
 - (i) one or both members of the couple, or one or more members of the polygamous marriage, are responsible for a child or young person, and
 - (ii) the Department is satisfied that, unless a jobseeker’s allowance is paid, the child or young person will suffer hardship;
- (f) he has an award of a jobseeker’s allowance which includes or would, if a claim for a jobseeker’s allowance from him were to succeed, have included in his applicable amount a disability premium and the Department is satisfied that, unless a jobseeker’s allowance is paid, the person who would satisfy the conditions of entitlement to that premium would suffer hardship;
- (g) he suffers, or his partner suffers, from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Department is satisfied that—
 - (i) the suffering has already lasted, or is likely to last, for not less than 26 weeks, and
 - (ii) unless a jobseeker’s allowance is paid to that person, the probability is that the health of the person suffering would, within 2 weeks of the Department making its decision, decline further than that of a normally healthy adult and that person would suffer hardship;

- (h) he does, or his partner does, or in the case of a person who is married to more than one person under a law which permits polygamy, at least one of those persons does, devote a considerable portion of each week to caring for another person who—
- (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act;
 - (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier, or
 - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made, and the Department is satisfied, after taking account of the factors set out in paragraph (5), in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a jobseeker's allowance is paid to the offender;
- (i) he is a person or is the partner of a person to whom Article 18 of the Jobseekers Order (severe hardship) applies by virtue of a direction issued by the Department, except where the person to whom the direction applies does not satisfy the requirements of Article 3(2)(a) to (c) of that Order;
- (j) he is a person—
- (i) to whom Article 5(1)(f)(iii) of the Jobseekers Order (persons under the age of 18) applies, or is the partner of such a person, and
 - (ii) in respect of whom the Department is satisfied that the person will, unless a jobseeker's allowance is paid, suffer hardship; or
- (k) he is a person—
- (i) who, pursuant to the Children Order, was being looked after by an authority;
 - (ii) with whom the authority had a duty, pursuant to that Order, to take reasonable steps to keep in touch, or
 - (iii) who, pursuant to that Order, qualified for advice and assistance from an authority,
- but in respect of whom head (i), (ii) or (iii), as the case may be, had not applied for a period of 3 years or less as at the date on which he complies with the requirements of regulation 9; and
- (iv) who, as at the date on which he complies with the requirements of regulation 9, is under the age of 21.

(2) Except in a case to which paragraph (3) or (4) applies, a person shall, for the purposes of regulation 7, be deemed to be a person in hardship where, after taking account of the factors set out in paragraph (5) in so far as they are appropriate to the particular circumstances of the case, the Department is satisfied that he or his partner will suffer hardship unless a jobseeker's allowance is paid to him.

(3) In paragraphs (1) and (2), a person shall not be deemed to be a person in hardship—

- (a) where he is entitled, or his partner is entitled, to income support or where he or his partner fall within a category of persons prescribed for the purpose of section 123(1)(e) of the Benefits Act(a);
- (b) during any period in respect of which it has been determined that a jobseeker's allowance is not payable to him pursuant to Article 21 of the Jobseekers Order(b) (circumstances in which a jobseeker's allowance is not payable); or
- (c) during any week in the disqualification period in respect of which he is subject to a restriction imposed pursuant to section 53 or 54 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (loss of benefit provisions).

(4) Paragraph (1)(h) shall not apply in a case where the person being cared for resides in a residential care home or nursing home.

(5) Factors which, for the purposes of paragraphs (1) and (2), the Department is to take into account in determining whether the person is a person in hardship are—

- (a) the presence in that person's family of a person who satisfies the requirements for a disability premium specified in paragraphs 13 and 14 of Schedule 1 to the Jobseeker's Allowance Regulations(c) or for a disabled child premium specified in paragraph 16 of that Schedule;
- (b) the resources which, without a jobseeker's allowance, are likely to be available to the offender's family, the amount by which these resources fall short of the amount applicable in his case in accordance with regulation 10 (applicable amount in hardship cases), the amount of any resources which may be available to members of the offender's family from any person in the offender's household who is not a member of his family and the length of time for which those factors are likely to persist;
- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to that person or a member of his family, or will be available at considerably reduced levels and the length of time those factors are likely to persist.

(a) Paragraph (e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(b) Article 21 was amended by Schedule 1 to the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) and paragraph 13 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(c) Paragraph 14 was amended by regulation 2(17)(c) of S.R. 1996 No. 503 and regulation 2(2) of S.R. 1999 No. 385

(6) In determining the resources available to that person's family under paragraph (5)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act shall be disregarded.

Circumstances in which an income-based jobseeker's allowance is payable to a person who is a person in hardship

6.—(1) This regulation applies to a person in hardship within the meaning of regulation 5(1) and is subject to the provisions of regulations 8 and 9.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 6(2) of the Act prevents payment of a jobseeker's allowance to the offender or section 8 of the Act prevents payment of a jobseeker's allowance to an offender's family member but the allowance shall be payable under this paragraph only if and so long as the claimant satisfies the conditions for entitlement to an income-based jobseeker's allowance.

Further circumstances in which an income-based jobseeker's allowance is payable to a person who is a person in hardship

7.—(1) This regulation applies to a person in hardship within the meaning of regulation 5(2) and is subject to the provisions of regulations 8 and 9.

(2) An income-based jobseeker's allowance shall be payable to a person in hardship even though section 6(2) of the Act prevents payment of a jobseeker's allowance to the offender or section 8 of the Act prevents payment of a jobseeker's allowance to an offender's family member but the allowance shall not be payable under this paragraph—

- (a) where the offender is the claimant, in respect of the first 14 days of the disqualification period;
- (b) where the offender's family member is the claimant, in respect of the first 14 days of the relevant period,

and shall be payable thereafter only if and so long as the claimant satisfies the conditions for entitlement to an income-based jobseeker's allowance.

Conditions for payment of an income-based jobseeker's allowance

8.—(1) An income-based jobseeker's allowance shall not be payable in accordance with regulation 6 or 7 except where the claimant has—

- (a) furnished on a form approved for the purpose by the Department or in such other form as it may in any particular case approve, a statement of the circumstances he relies upon to establish entitlement under regulation 5(1) or, as the case may be, (2); and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by the claimant to such office as the Department may specify.

Provision of information

9. For the purpose of section 6(4)(b) of the Act, the offender, and for the purpose of section 8(4)(b) of the Act, the offender or any member of his family, shall provide to the Department information as to the circumstances of the person alleged to be in hardship.

Applicable amount in hardship cases

10.—(1) The weekly applicable amount of a person to whom an income-based jobseeker's allowance is payable in accordance with this Part shall be reduced by a sum equivalent to 40 per cent. or, in a case where the claimant or any other member of his family is either pregnant or seriously ill, 20 per cent. of the following amount—

- (a) where the claimant is a single claimant aged not less than 18 but less than 25 or a member of a couple or polygamous marriage where one member is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage each other member, is a person under 18 who is not eligible for an income-based jobseeker's allowance under Article 5(1)(f)(iii) of the Jobseekers Order or is not subject to a direction under Article 18 of that Order, the amount specified in paragraph 1(1)(d) of Schedule 1 to the Jobseeker's Allowance Regulations;
- (b) where the claimant is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (a) applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

PART IV

HARDSHIP FOR JOINT-CLAIM COUPLES

Application of Part and meaning of "couple in hardship"

11.—(1) This Part applies in respect of any part of the disqualification period when section 7(2) of the Act would otherwise apply.

(2) In this Part, a "couple in hardship" means, for the purposes of regulation 13, a joint-claim couple, other than a couple to whom paragraph (4) or (5) applies, who are claiming a jobseeker's allowance jointly where at least one member of that couple is an offender and where—

- (a) the woman member of the joint-claim couple is pregnant and the Department is satisfied that, unless a joint-claim jobseeker's allowance is paid, she will suffer hardship;
- (b) one or both members of the couple are members of a polygamous marriage, one member of the marriage is pregnant and the Department

is satisfied that, unless a joint-claim jobseeker's allowance is paid, she will suffer hardship;

- (c) the award of a joint-claim jobseeker's allowance includes, or would, if a claim for a jobseeker's allowance from the couple were to succeed, have included in their applicable amount a disability premium and the Department is satisfied that, unless a joint-claim jobseeker's allowance is paid, the member of the couple who would have caused the disability premium to be applicable to the couple would suffer hardship;
- (d) either member of the couple suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Department is satisfied that—
 - (i) the suffering has already lasted or is likely to last, for not less than 26 weeks, and
 - (ii) unless a joint-claim jobseeker's allowance is paid, the probability is that the health of the person suffering would, within 2 weeks of the Department making its decision, decline further than that of a normally healthy adult and the member of the couple who suffers from that condition would suffer hardship;
- (e) either member of the couple, or where a member of that couple is married to more than one person under a law which permits polygamy, one member of that marriage, devotes a considerable portion of each week to caring for another person who—
 - (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act;
 - (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier; or
 - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claim was made, and the Department is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a joint-claim jobseeker's allowance is paid; or
- (f) Article 18 of the Jobseekers Order applies to either member of the couple by virtue of a direction issued by the Department, except where the member of the joint-claim couple to whom the direction applies does not satisfy the requirements of Article 3(2)(a) to (c) of that Order;

(g) Article 5A(1)(e)(ii) of the Jobseekers Order(a) (member of a joint-claim couple under the age of 18) applies to either member of the couple and the Department is satisfied that unless a joint-claim jobseeker's allowance is paid, the couple will suffer hardship; or

(h) one or both members of the couple is a person—

(i) who, pursuant to the Children Order, was being looked after by an authority;

(ii) with whom the authority had a duty, pursuant to that Order, to take reasonable steps to keep in touch, or

(iii) who, pursuant to that Order, qualified for advice or assistance from an authority,

but in respect of whom head (i), (ii) or (iii), as the case may be, had not applied for a period of 3 years or less as at the date on which the requirements of regulation 16 are complied with; and

(iv) who, as at the date on which the requirements of regulation 16 are complied with, is under the age of 21.

(3) Except in the case to which paragraph (4) or (5) applies, a joint-claim couple shall, for the purposes of regulation 14, be deemed to be a couple in hardship where the Department is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the couple will suffer hardship unless a joint-claim jobseeker's allowance is paid.

(4) In paragraphs (2) and (3), a joint-claim couple shall not be deemed to be a "couple in hardship"—

(a) where one member of the couple is entitled to income support or falls within a category of persons prescribed for the purposes of section 123(1)(e) of the Benefits Act; or

(b) during a period in respect of which it has been determined that both members of the couple are subject to sanctions for the purposes of Article 22A of the Jobseekers Order(b) (denial or reduction of joint-claim jobseeker's allowance).

(5) Paragraph (2)(e) shall not apply in a case where the person being cared for resides in a residential care home or nursing home.

(6) Factors which, for the purposes of paragraphs (2) and (3), the Department is to take into account in determining whether a joint-claim couple will suffer hardship are—

(a) the presence in the joint-claim couple of a person who satisfies the requirements for a disability premium specified in paragraphs 20H and 20I of Schedule 1 to the Jobseeker's Allowance Regulations(c);

(b) the resources which, without a joint-claim jobseeker's allowance, are likely to be available to the joint-claim couple, the amount by which

(a) Article 5A was inserted by section 56 of, and paragraph 5(2) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) Article 22A was inserted by Article 56 of, and paragraph 14 of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(c) Paragraphs 20H and 20I were inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350

these resources fall short of the amount applicable in their case in accordance with regulation 16 (applicable amount of joint-claim couple in hardship cases), the amount of any resources which may be available to the joint-claim couple from any person in the couple's household who is not a member of the family and the length of time for which those factors are likely to persist;

- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the joint-claim couple, or will be available at considerably reduced levels, the hardship that will result and the length of time those factors are likely to persist.

(7) In determining the resources available to the offender's family under paragraph (6)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act shall be disregarded.

Circumstances in which a joint-claim jobseeker's allowance is payable where a joint-claim couple is a couple in hardship

12.—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 11(2) and is subject to the provisions of regulations 14 and 15.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 7(2) of the Act prevents payment of a joint-claim jobseeker's allowance to the couple or section 7(3) of the Act reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance shall be payable under this paragraph only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 to the Jobseeker's Allowance Regulations^(a) (categories of members not required to satisfy conditions in Article 3(2B)(b) of the Order).

Further circumstances in which a joint-claim jobseeker's allowance is payable to a couple in hardship

13.—(1) This regulation applies to a couple in hardship falling within regulation 11(3) and is subject to the provisions of regulations 14 and 15.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 7(2) of the Act prevents payment of a joint-claim jobseeker's allowance to the couple or section 7(3) of the Act reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the prescribed period; and

(a) Schedule A1 was inserted by Schedule 1 to S.R. 2000 No. 350 and amended by regulation 2(6) of S.R. 2001 No. 120

- (b) shall be payable thereafter only where the conditions of entitlement to a joint-claim jobseeker's allowance are satisfied or where one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 to the Jobseeker's Allowance Regulations (categories of members not required to satisfy conditions in Article 3(2B)(b) of the Order).

Conditions for payment of a joint-claim jobseeker's allowance

14.—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 12 or 13 except where either member of the couple has—

- (a) furnished on a form approved for the purpose by the Department or in such other form as it may in any particular case approve, a statement of the circumstances he relies upon to establish entitlement under regulation 11(2) or, as the case may be, (3); and
(b) signed the statement.

(2) The completed and signed form shall be delivered by a member of the couple to such office as the Department may specify.

Provision of information

15. For the purposes of section 7(4)(b) of the Act, a member of the couple shall provide to the Department information as to the circumstances of the alleged hardship of the couple.

Applicable amount of joint-claim couple in hardship cases

16.—(1) The weekly applicable amount of a couple to whom a joint-claim jobseeker's allowance is payable in accordance with this Part shall be reduced by a sum equivalent to 40 per cent. or, in a case where a member of the joint-claim couple is either pregnant or seriously ill or where a member of the joint-claim couple is a member of a polygamous marriage and one of those members is either pregnant or seriously ill, 20 per cent. of the following amount—

- (a) where one member of the joint-claim couple or of the polygamous marriage is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage, each other member, is a person under 18 to whom Article 5A(1)(e)(ii) of the Jobseekers Order applies or is not subject to a direction under Article 18 of that Order, the amount specified in paragraph 1(1)(d) of Schedule 1 to the Jobseeker's Allowance Regulations;
(b) where one member of the joint-claim couple or at least one member of the polygamous marriage (other than a member of a couple or polygamous marriage to whom sub-paragraph (a) applies) is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

PART V

HOUSING BENEFIT

Circumstances where a reduced amount of housing benefit is payable

17.—(1) Subject to regulation 18, any payment of housing benefit which falls to be made to an offender in respect of any week in the disqualification period or to an offender's family member in respect of any week in the relevant period shall be reduced—

(a) where the claimant or a member of his family is pregnant or seriously ill, by a sum equivalent to 20 per cent.;

(b) in any other case, by a sum equivalent to 40 per cent.,

of the amount which is or, where he is not the claimant or is not single, would be applicable to the offender in respect of a single claimant for those benefits on the first day of the disqualification period or, where the payment falls to be made to an offender's family member, on the first day of the relevant period and specified in paragraph 1(1) of Schedule 2 to the Housing Benefit Regulations(a).

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

(3) Where the rate of housing benefit payable to a claimant changes, the rules set out in paragraphs (1) and (2) for a reduction in the benefit payable shall be applied to the new rate and any adjustment to the reduction shall take effect from the beginning of the first benefit week to commence for the claimant following the change.

(4) In this regulation "benefit week" shall have the same meaning as in regulation 2(1) of the Housing Benefit Regulations.

Circumstances where housing benefit is payable

18. Regulation 17 shall not apply and housing benefit shall be payable to an offender or to an offender's family member—

(a) where the offender is the claimant, he is entitled to that benefit during the disqualification period;

(b) where the offender's family member is the claimant, he is entitled to that benefit during the relevant period,

and the claimant is, at the same time, also entitled to income support or to an income-based jobseeker's allowance.

PART VI

DEDUCTIONS FROM BENEFITS AND DISQUALIFYING BENEFITS

Social security benefits not to be sanctionable benefits

19. The following social security benefits are to be treated as a disqualifying benefit but not a sanctionable benefit—

(a) The amounts in paragraph 1(1) of Schedule 2 were substituted by S.R. 2001 No. 41

- (a) constant attendance allowance and exceptionally severe disabled allowance, payable under sections 104 and 105 respectively of the Benefits Act where a disablement pension is payable under section 103 of that Act; and
- (b) a bereavement payment payable under section 36 of the Benefits Act(a).

Deductions from benefits

20. Any restriction in section 6, 7 or 8 of the Act shall not apply in relation to payments of benefit to the extent of any deduction from the payments which fall to be made under regulations made under section 5(1)(q) of the Social Security Administration (Northern Ireland) Act 1992(b) for, or in place of, child support maintenance and for this purpose “child support maintenance” means such maintenance which is payable under Article 40 of the Child Support (Northern Ireland) Order 1991(c).

PART VII

OTHER AMENDMENTS

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

21. In Schedule 1 to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(d) (decisions against which no appeal lies) after paragraph 24 there shall be added the following paragraph—

“Loss of Benefit

25. A decision of the Department that a sanctionable benefit as defined in section 6(8) of the Social Security Fraud Act (Northern Ireland) 2001 is not payable, or is to be reduced, pursuant to section 6, 7 or 8 of that Act as a result of convictions for one or more benefit offences in each of two separate sets of proceedings, one offence being committed within 3 years of conviction for another, where the only ground of appeal is that any of the convictions were erroneous.”.

Sealed with the Official Seal of the Department for Social Development
on 6th March 2002.

(L.S.)

D. A. Baker
Senior Officer of the Department for
Social Development

(a) Section 36 was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(b) 1992 c. 8
(c) S.I. 1991/2628 (N.I. 23); Article 40 is substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.)
(d) S.R. 1999 No. 162; paragraph 24 was added by paragraph 7 of Schedule 4 to S.R. 2001 No. 176

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations are made by virtue of, or in consequence of, sections 6 to 12 of the Social Security Fraud Act (Northern Ireland) 2001 (“the Act”) and relate to restrictions in payment of certain benefits which apply where a person has been convicted of one or more benefit offences in each of two separate proceedings and one offence is committed within three years of the conviction for another such offence.

Part I contains provisions relating to citation, commencement and interpretation. The Regulations come into operation on 1st April 2002. Regulation 2 prescribes what is to be the disqualification period for the purposes of the imposition of the loss of benefit or reduction in the amount payable.

Part II prescribes what are to be the reductions in income support or joint-claim jobseeker’s allowance when the restrictions apply.

Part III makes provision for an income-based jobseeker’s allowance to be paid where the claimant is a person in hardship and Part IV makes provision for a joint-claim jobseeker’s allowance to be paid where a joint-claim couple are a couple in hardship.

Part V makes provision regarding reductions in housing benefit during the disqualification period or the relevant period and when the benefit remains payable during those periods.

Part VI prescribes certain benefits which are to be disqualifying but not sanctionable benefits and that the restrictions in sections 6 to 8 of the Act are not to apply to deductions from benefit for, or in place of, child support maintenance.

Part VII amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 so that no appeal to the tribunal lies on the ground that a conviction which led to the restriction was erroneous.

Sections 6(3) to (6), 7(3) and (4), 8(2) to (5) and 9(1) and (2) of the Act are some of the enabling provisions under which these Regulations are made. They were brought into operation, for the purpose only of authorising the making of regulations, on 6th March 2002 and, for all other purposes, on 1st April 2002 by virtue of the Social Security Fraud (2001 Act) (Commencement No. 2) Order (Northern Ireland) 2002 (S.R. 2002 No. 75 (C. 7)). As these Regulations are made before the end of the period of 6 months from the commencement of the said sections, they are accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992, from prior reference to the Social Security Advisory Committee.

These Regulations do not impose a charge on business.

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