

2002 No. 80

HOUSING; RATES; SOCIAL SECURITY

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

Made 6th March 2002

Coming into operation 1st April 2002

The Department for Social Development, in exercise of the powers conferred by sections 22(5), 122(1)(a) and (d), 123(1)(e), 131(1) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 7(3), 28(1) and (4)(d) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(b), Articles 10(1), 11(3) and (6) and 74(1) of the Social Security (Northern Ireland) Order 1998(c) and now vested in it(d), and section 60(1) and (2)(a) of, and paragraphs 3(1) and 4(3) and (5) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(e) and all other powers enabling it in that behalf, by this statutory rule which contains only regulations made consequential upon sections 6 to 12 of the Social Security Fraud Act (Northern Ireland) 2001(f), with the consent of the Department of Finance and Personnel(g) in so far as regulation 4 is concerned, hereby makes the following Regulations:

Citation, commencement and interpretation

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

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

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- (a) 1992 c. 7; section 22(5) was amended by paragraph 5 of, and section 123(1)(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) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (c) S.I. 1998/1506 (N.I. 10)
- (d) See Article 8(b) of S.R. 1999 No. 481
- (e) 2000 c. 4 (N.I.)
- (f) 2001 c. 17 (N.I.)
- (g) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; subsection (6A) was 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 which transferred the consent function under section 171(6A) from the Department of the Environment to the Department of Finance and Personnel
- (h) 1954 c. 33 (N.I.)

Amendment of the Social Security (Credits) Regulations

2.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “the Contributions and Benefits Act”(b) there shall be inserted the following definition—

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

(3) In regulation 7A(1)(c) (credits for invalid care allowance) after “paid to him” there shall be inserted “or would be paid to him but for a restriction under section 6 of the Fraud Act (loss of benefit provisions)”.

(4) In regulation 8A(2)(d) (credits for unemployment) after sub-paragraph (c) there shall be added—

“or

(d) a week in respect of which he would have been paid a jobseeker’s allowance but for a restriction imposed pursuant to section 6, 7 or 8 of the Fraud Act (loss of benefit provisions).”.

Amendment of the Income Support (General) Regulations

3.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(e) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “the Contributions and Benefits Act”(f) there shall be inserted the following definition—

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

(3) In Schedule 1B(g) (prescribed categories of person) in paragraph 4(b) (persons caring for another person) at the end there shall be added “or would be in receipt of that allowance but for the application of a restriction under section 6 of the Fraud Act (loss of benefit provisions)”.

(4) In Schedule 2 (applicable amounts) in paragraph 13 (severe disability premium) after sub-paragraph (4) there shall be added the following sub-paragraph—

“(5) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of an invalid care allowance shall include references to a person

(a) S.R. 1975 No. 113; relevant amending regulations are S.R. 1976 No. 99, S.R. 1987 No. 153, S.R. 1988 No. 326 S.R. 1995 No. 150, S.R. 1996 No. 430 and S.R. 2001 No. 108

(b) The definition of “the Contributions and Benefits Act” was inserted by regulation 6(2) of S.R. 1995 No. 150

(c) Regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and paragraph (1) was amended by regulation 6(a) of S.R. 1987 No. 153, regulation 2(5)(c) of of S.R. 1988 No. 326 and regulation 3(5) of S.R. 2001 No. 108

(d) Regulation 8A was inserted by regulation 2(6) of S.R. 1996 No. 430

(e) S.R. 1987 No. 459; relevant amending regulations are S.R. 1993 No. 373, S.R. 1996 No. 199 and S.R. 2000 No. 74

(f) The definition of “the Contributions and Benefits Act” was inserted by regulation 4(2)(a) of S.R. 1993 No. 373

(g) Schedule 1B was inserted by regulation 22 of, and Schedule 1 to, S.R. 1996 No. 199 and paragraph (4)(b) was amended by regulation 4(1) of S.R. 2000 No. 74

who would have been in receipt of that allowance but for the application of a restriction under section 6 of the Fraud Act (loss of benefit provisions).”.

Amendment of the Housing Benefit (General) Regulations

4.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “the Children Order”(b) there shall be inserted the following definition—

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

(3) In regulation 2(3A)(c) (interpretation) after sub-paragraph (c) there shall be added the following sub-paragraph—

“(d) in respect of which an income-based jobseeker’s allowance or a joint-claim jobseeker’s allowance would be payable but for a restriction imposed pursuant to section 6, 7 or 8 of the Fraud Act (loss of benefit provisions).”.

(4) In Schedule 2 (applicable amounts) in paragraph 13 (severe disability premium) after sub-paragraph (4)(d) there shall be added the following sub-paragraph—

“(5) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of an invalid care allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6 of the Fraud Act (loss of benefit provisions).”.

Amendment of the Jobseeker’s Allowance Regulations

5.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(e) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “the Child Support Order” there shall be inserted the following definition—

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

(3) In regulation 47(4)(b)(ii)(f) (jobseeking period) after “Article 22A of the Order” there shall be added “or by virtue of a restriction imposed pursuant to section 6, 7 or 8 of the Fraud Act (loss of benefit provisions);”.

(a) S.R. 1987 No. 461; relevant amending regulations are S.R. 1994 No. 335, S.R. 1996 No. 334, S.R. 1997 No. 331 and S.R. 2000 No. 365

(b) The Definition of “the Children Order” was inserted by regulation 2(1) and (2)(b) of S.R. 1997 No. 331

(c) Paragraph (3A) was inserted by regulation 2(b) of S.R. 1996 No. 334 and amended by regulation 3 of S.R. 2000 No. 365

(d) Sub-paragraph (4) was added by regulation 11(b) of S.R. 1994 No. 335

(e) S.R. 1996 No. 198; relevant amending regulations are S.R. 1996 No. 358, S.R. 2000 No. 350 and S.R. 2001 No. 120

(f) Paragraph (4)(b) was substituted by regulation 14(3) of S.R. 1996 No. 358 and amended by regulation 2(5) of S.R. 2001 No. 120

(4) In Schedule 1 (applicable amounts)—

(a) in paragraph 15 (severe disability premium) after sub-paragraph (8) there shall be added the following sub-paragraph—

“(9) In sub-paragraphs (1)(c) and (2)(d), references to a person being in receipt of an invalid care allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6 of the Fraud Act (loss of benefit provisions).”;

(b) in paragraph 20I(a) (severe disability premium) after sub-paragraph (6) there shall be added the following sub-paragraph—

“(7) In sub-paragraph (1)(d), the reference to a person being in receipt of an invalid care allowance shall include a reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6 of the Fraud Act (loss of benefit provisions).”.

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

6. In regulation 3(1) of the Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996(b) (period of entitlement to a qualifying benefit: further provisions) after “Article 21 of the Order” there shall be inserted “or in accordance with section 6, 7 or 8 of the Social Security Fraud Act (Northern Ireland) 2001 (loss of benefit provisions)”.

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

7.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(c) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “the Order” there shall be inserted the following definition—

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

(3) In regulation 3 (revision of decisions) after paragraph (8) there shall be inserted the following paragraph—

“(8A) Where a court convicts a person of an offence, that conviction results in a restriction being imposed under section 6, 7 or 8 of the Fraud Act (loss of benefit provisions) and that conviction is quashed or set aside by that or any other court, a decision of the Department under Article 9(1)(a) or 11 made in accordance with regulation 6(2)(i) or (j) may be revised at any time.”.

(4) In regulation 6(2) (supersession of decisions) after sub-paragraph (h)(d) there shall be added the following sub-paragraphs—

(a) Paragraph 20I was inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350
(b) S.R. 1996 No. 519; to which there are amendments not relevant to these Regulations
(c) S.R. 1999 No. 162; relevant amending regulations are S.R. 2001 No. 176
(d) Sub-paragraph (h) was added by paragraph 4 of Schedule 4 to S.R. 2001 No. 176

“(i) is a decision of the Department that a sanctionable benefit is payable to a claimant where that benefit ceases to be payable or falls to be reduced under section 6 or 8 of the Fraud Act and for this purpose “sanctionable benefit” has the same meaning as in section 6 of that Act;

(j) is a decision of the Department that a joint-claim jobseeker’s allowance is payable where that allowance ceases to be payable or falls to be reduced under section 7 of the Fraud Act.”.

(5) In regulation 7 (date from which a decision superseded under Article 11 takes effect) after paragraph (26)(a) there shall be added the following paragraph—

“(27) A decision to which regulation 6(2)(i) or (j) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section 6 of the Fraud Act(b).”.

Amendment of the Housing Benefit (Decisions and Appeals) Regulations

8.—(1) The Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(c) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “the Administration Act” there shall be inserted the following definition—

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

(3) In regulation 4 (revision of decisions) after paragraph (6) there shall be inserted the following paragraph—

“(6A) Where a court convicts a person of an offence, that conviction results in a restriction being imposed under section 6, 7 or 8 of the Fraud Act (loss of benefit provisions) and that conviction is quashed or set aside by that or any other court, a decision of the relevant authority made in accordance with regulation 7(2)(f) or (g) may be revised at any time.”.

(4) In regulation 7(2) (decisions superseding earlier decisions) after sub-paragraph (e) there shall be added the following sub-paragraphs—

“(f) which is affected by a decision of the Department that a sanctionable benefit payable to a claimant ceases to be payable or falls to be reduced under section 6 or 8 of the Fraud Act and for this purpose “sanctionable benefit” has the same meaning as in section 6 of that Act, or

(g) which is affected by a decision of the Department that a joint-claim jobseeker’s allowance ceases to be payable or falls to be reduced under section 7 of the Fraud Act.”.

(a) Paragraph (26) was added by paragraph 5 of Schedule 4 to S.R. 2001 No. 176
(b) The beginning of the disqualification period for the purposes of section 6 is prescribed in regulation 2 of the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 79)
(c) S.R. 2001 No. 213

(5) In regulation 8 (date from which a decision superseding an earlier decision takes effect) after paragraph (7) there shall be added the following paragraph—

“(8) A decision to which regulation 7(2)(f) or (g) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section 6 of the Fraud Act.”.

Amendment of the Discretionary Financial Assistance Regulations

9. In regulation 3 of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001(a) (circumstances in which discretionary housing payments may be made) after paragraph (h) there shall be added the following paragraph—

“(i) a restriction in relation to the payment of benefit imposed pursuant to section 6, 7 or 8 of the Social Security Fraud Act (Northern Ireland) 2001 (loss of benefit provisions).”.

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

The Department of Finance and Personnel hereby consents to regulation 4 of the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel
on 6th March 2002.

(L.S) *N. Taylor*
Senior Officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations are made in consequence of sections 6 to 12 of the Social Security Fraud Act (Northern Ireland) 2001 (“the Act”) which relate to restrictions in payment of certain benefits 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 (“the loss of benefit provisions”).

Regulation 2 amends the Social Security (Credits) Regulations (Northern Ireland) 1975 to ensure that those whose invalid care allowance or jobseeker’s allowance is restricted through the application of the loss of benefit provisions do not lose credits.

Regulation 3 amends the Income Support (General) Regulations (Northern Ireland) 1987 to ensure that those whose invalid care allowance is restricted through the application of the loss of benefit provisions are still treated as carers for the purposes of those Regulations and to ensure that entitlement to the severe disability premium is not affected.

Regulation 4 amends the Housing Benefit (General) Regulations (Northern Ireland) 1987 to ensure that those whose jobseeker’s allowance is restricted through the application of the loss of benefit provisions do not lose their housing benefit as a result and to ensure that entitlement to the severe disability premium is not affected.

Regulation 5 amends the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 to ensure that days where contribution-based jobseeker’s allowance is not payable because of the loss of benefit provisions are treated as days of entitlement to that allowance and to ensure that entitlement to the severe disability premium is not affected.

Regulation 6 makes a consequential amendment to the Social Security (Back to Work Bonus) (No. 2) Regulations (Northern Ireland) 1996.

Regulations 7 and 8 amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 and the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 respectively to ensure that the decision-making and appeals mechanisms apply to decisions to restrict payment of benefit as a result of the loss of benefit provisions.

Regulation 9 amends the Discretionary Financial Assistance Regulations (Northern Ireland) 2001 to provide that discretionary housing payments shall not be made where the requirement for financial assistance arises as a consequence of the application of the loss of benefit provisions.

Section 60(1) and 2(a) of, and paragraphs 3(1) and 4(3) and (5) of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern

Ireland) 2000 are some of the enabling provisions under which these Regulations are made. They came fully into operation on 2nd July 2001 by virtue of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 5) Order (Northern Ireland) 2001 (S.R. 2001 No. 141 (C. 8)).

These Regulations are made in consequence of sections 6 to 12 of the Act which come fully into operation 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 (c. 8), from prior reference to the Social Security Advisory Committee.

These Regulations do not impose a charge on business.

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