

2006 No. 97

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
(Northern Ireland) 2006**

Made - - - - *9th March 2006*

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 123(1)(e), 131(1), 132(4)(a) and (b), 132A(3), 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(l) and 165(1), (4) and (5) of the Social Security Administration Act (Northern Ireland) 1992(b), Articles 14(4)(a) and (b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(c), and now vested in it(d), and sections 2(3)(b) and (9), 13(1)(a), 15(1)(j) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002(e).

Regulation 3 of these Regulations is made with the consent of the Department of Finance and Personnel(f).

The Social Security Advisory Committee has agreed that proposals in respect of regulation 3 should not be referred to it(g).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2006 and shall, subject to paragraphs (2) to (6), come into operation on 6th April 2006.

(2) This regulation and regulation 3(4)(d) and (7) shall come into operation on 1st April 2006.

(3) Regulation 2(4)(a) to (c), (e) and (f) shall come into operation on 3rd April 2006.

(4) Regulations 2(2)(a) and (b) and (3)(a), 3(4)(a) and (6)(a), and 4(2)(a) and (b) and (3)(a) shall come into operation on 6th April 2006 immediately after the provisions referred to in regulation

-
- (a) 1992 c. 7; 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)); section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)); section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
 - (b) 1992 c. 8
 - (c) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) 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)
 - (d) See Article 8(b) of S.R. 1999 No. 481
 - (e) 2002 c. 14 (N.I.)
 - (f) 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
 - (g) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

1(4) of the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2005(a).

(5) Regulations 2(4)(d) and 6 shall come into operation on 10th April 2006.

(6) Regulation 5(3) and (5) shall come into operation on 10th April 2006 immediately after the coming into operation of regulation 7(5) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 2005(b).

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

Amendment of the Income Support (General) Regulations

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

(2) In regulation 42 (notional income)—

- (a) in paragraph (2)(g)(e) for “or retirement annuity contract” there shall be substituted “, retirement annuity contract or a payment made by the Board of the Pension Protection Fund”;
- (b) in paragraph (2ZA)(a)(f) for “personal pension scheme or retirement annuity contract” there shall be substituted “a personal pension scheme, a retirement annuity contract or the Board of the Pension Protection Fund”;
- (c) in paragraph (4)(a)(ia)(g) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and
- (d) in paragraph (4ZA)(d)(h) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

(3) In regulation 51(notional capital)—

- (a) in paragraph (2)(da)(i) after “scheme” there shall be inserted “or a payment made by the Board of the Pension Protection Fund”;
- (b) in paragraph (3)(a)(ia)(j) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and
- (c) in paragraph (3A)(c)(k) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

(a) S.R. 2005 No. 424

(b) S.R. 2005 No. 580

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

(d) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 318, S.R. 1989 No. 139, S.R. 1995 No. 367, S.R. 1999 No. 391, S.R. 2000 No. 260, S.R. 2003 No. 195 and S.R. 2005 Nos. 424 and 536

(e) Paragraph (2)(g) was added by regulation 2(4)(a) of S.R. 1995 No. 367 and amended by regulation 2(3)(a) of S.R. 2005 No. 424

(f) Paragraph (2ZA)(a) was substituted by regulation 2(3)(b) of S.R. 2005 No. 424

(g) Paragraph (4)(a)(ia) was inserted by regulation 2(1)(a) of S.R. 1999 No. 391 and amended by paragraph 10(e)(iii) of Schedule 1 to S.R. 2003 No. 195

(h) Paragraph (4ZA)(d) was added by regulation 2(3)(b) of S.R. 1999 No. 391 and amended by paragraph 10(g) of Schedule 1 to S.R. 2003 No. 195

(i) Paragraph (2)(da) was inserted by regulation 2(5) of S.R. 2005 No. 424

(j) Paragraph (3)(a)(ia) was inserted by regulation 2(1)(a) of S.R. 1999 No. 391 and amended by paragraph 13(a)(iii) of Schedule 1 to S.R. 2003 No. 195

(k) Paragraph (3A)(c) was added by regulation 2(3)(b) of S.R. 1999 No. 391 and amended by paragraph 13(c) of Schedule 1 to S.R. 2003 No. 195

- (4) The following provisions shall be omitted—
- (a) regulation 17(1)(g)(a) (applicable amounts);
 - (b) regulation 18(1)(h)(b) (polygamous marriages);
 - (c) regulation 71(1)(a)(v) and (d)(iv)(c) (applicable amounts in urgent cases);
 - (d) paragraph 16A(d) of Schedule 1B (prescribed categories of person);
 - (e) Schedule 3A(e) (protected sum); and
 - (f) Schedule 3B(f) (protected sum).

Amendment of the Housing Benefit (General) Regulations

3.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(g) shall be amended in accordance with paragraphs (2) to (7).

(2) The amendments made by paragraphs (3) and (5) are to the Regulations as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(h) applies.

(3) In regulation 25(1)(i) (meaning of “income”)—

- (a) at the end of sub-paragraph (r) the word “and” shall be omitted; and
- (b) after sub-paragraph (s) there shall be added—

“and

- (t) PPF periodic payments within the meaning of section 17(1)(j) of the State Pension Credit Act.”.

(4) In regulation 35 (notional income)—

- (a) in paragraph (2)(c)(k) for “or retirement annuity contract” there shall be substituted “, retirement annuity contract or a payment made by the Board of the Pension Protection Fund”;
- (b) in paragraph (3)(za)(l) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”;
- (c) in paragraph (3A)(d)(m) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and

-
- (a) Regulation 17(1)(g) was added by paragraph 13 of Schedule 1 to S.R. 1988 No. 318 and amended by paragraph 17 of Schedule 1 to S.R. 1989 No. 139
 - (b) Regulation 18(1)(h) was added by paragraph 14 of Schedule 1 to S.R. 1988 No. 318 and amended by paragraph 17 of Schedule 1 to S.R. 1989 No. 139
 - (c) Regulation 71(1)(a)(v) and (d)(iv) was added by paragraph 15 of Schedule 1 to S.R. 1988 No. 318 and amended by paragraph 17 of Schedule 1 to S.R. 1989 No. 139
 - (d) Paragraph 16A was inserted by regulation 2(2) of S.R. 2000 No. 260 and amended by paragraph 12(6) of Schedule 3 to S.R. 2005 No. 536
 - (e) Schedule 3A was inserted by paragraph 16 of Schedule 1 to S.R. 1988 No. 318
 - (f) Schedule 3B was inserted by paragraph 18 of Schedule 1 to S.R. 1989 No. 139
 - (g) S.R. 1987 No. 461; relevant amending regulations are S.R. 1990 No. 137, S.R. 1995 No. 367, S.R. 1999 No. 391, S.R. 2003 Nos. 197 and 418, S.R. 2004 Nos. 144, 390 and 394 and S.R. 2005 Nos. 98 and 424
 - (h) S.R. 2003 No. 197
 - (i) Regulation 25(1) was amended by regulation 2(5)(b) of S.R. 2003 No. 418, regulation 2(10)(a) of S.R. 2004 No. 394 and regulation 2(5) of S.R. 2005 No. 98
 - (j) Section 17(1) was amended by paragraph 3(3) of the Schedule to S.R. 2006 No. 37
 - (k) Paragraph (2)(c) was substituted by regulation 3(4)(a) of S.R. 1995 No. 367 and amended by regulation 3(2) of S.R. 2005 No. 424
 - (l) Paragraph (3)(za) was inserted by regulation 2(2)(a) of S.R. 1999 No. 391
 - (m) Paragraph (3A)(d) was added by regulation 2(3)(a) of S.R. 1999 No. 391

(d) in paragraph (4)(a) for “or, as the case may be, (3)(b)” there shall be substituted “or (c)”(a).

(5) In regulation 37(2) (income paid to third parties) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

(6) In regulation 43 (notional capital)—

(a) in paragraph (2)(d)(b) for “or retirement annuity contract” there shall be substituted “, retirement annuity contract or a payment made by the Board of the Pension Protection Fund”;

(b) in paragraph (3)(za)(c) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and

(c) in paragraph (3A)(c)(d) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

(7) In regulation 65 (date on which entitlement is to commence)—

(a) in paragraph (1)(e) for “paragraph (2)” there shall be substituted “paragraphs (2) and (3)”; and

(b) after paragraph (2) there shall be added the following paragraph—

“(3) A claimant shall become entitled to housing benefit from the benefit week in which the first day in respect of which his claim is made falls, where—

(a) he is otherwise entitled to housing benefit;

(b) paragraph (2) does not apply to him; and

(c) he becomes liable in that benefit week to make payments, which fall due on a daily basis, in respect of a hostel which he occupies as his home.”.

Amendment of the Jobseeker’s Allowance Regulations

4.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(f) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 105 (notional income)—

(a) in paragraph (2)(g)(g) for “or occupational pension scheme” there shall be substituted “, occupational pension scheme or a payment made by the Board of the Pension Protection Fund”;

(b) in paragraph (2B)(a)(h) for “or personal pension scheme” there shall be substituted “ a personal pension scheme or the Board of the Pension Protection Fund”;

(c) in paragraph (10)(a)(ia)(i) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical

(a) Regulation 69(2)(c) was inserted by regulation 2(11)(a)(ii) of S.R. 2005 No. 444

(b) Paragraph (2)(d) was added by regulation 3(5) of S.R. 1995 No. 367 and amended by regulation 3(3) of S.R. 2005 No. 424

(c) Paragraph (3)(za) was inserted by regulation 2(2)(a) of S.R. 1999 No. 391

(d) Paragraph (3A)(c) was added by regulation 2(3)(a) of S.R. 1999 No. 391

(e) Paragraph (1) was amended by regulation 4(3)(a) of S.R. 1990 No. 137, regulation 14(a) of S.R. 2004 No. 144, and regulation 2(4)(a) of S.R. 2004 No. 390

(f) S.R. 1996 No. 198; relevant amending regulations are S.R. 1999 No. 391, S.R. 2003 No. 195 and S.R. 2005 No. 424

(g) Paragraph (2)(g) was amended by regulation 4(3)(a) of S.R. 2005 No. 424

(h) Paragraph (2B)(a) was inserted by regulation 4(3)(b) of S.R. 2005 No. 424

(i) Paragraph (10)(a)(ia) was inserted by regulation 2(1)(b) of S.R. 1999 No. 391 and amended by paragraph 10(c)(iii) of Schedule 2 to S.R. 2003 No. 195

payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and

- (d) in paragraph (10A)(d)(a) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

(3) In regulation 113 (notional capital)—

- (a) in paragraph (2)(da)(b) after “scheme” there shall be inserted “or a payment made by the Board of the Pension Protection Fund”;
- (b) in paragraph (3)(a)(ia)(c) for “or is a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”; and
- (c) in paragraph (3A)(c)(d) for “or in respect of a pension or other periodical payment made under a personal pension scheme” there shall be substituted “, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund”.

Amendment of the State Pension Credit Regulations

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(e) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 15(5) (income for the purposes of the Act) after sub-paragraph (j)(f) there shall be added the following sub-paragraph—

“(k) PPF periodic payments.”.

(3) In Schedule 1 Part 3 (amount applicable for former claimants of income support or income-based jobseeker’s allowance) for paragraph 6(9)(b) there shall be substituted the following sub-paragraph—

“(b) any amount by which the appropriate minimum guarantee of a patient is increased on 10th April 2006 by virtue of the substitution of paragraph 2(g) of Schedule 3.”.

(4) In paragraph 1 of Schedule 2 (housing costs)—

- (a) in sub-paragraph (2) in the definition of “disabled person” for paragraph (a) there shall be substituted the following paragraphs—

“(a) aged 75 or over;

(aa) who, had he in fact been entitled to income support, would have satisfied the requirements of paragraph 12(h) of Schedule 2 to the Income Support Regulations (additional condition for the higher pensioner and disability premiums); or”; and

- (b) in sub-paragraph (3) for “sub-paragraph (2)(a)” there shall be substituted “sub-paragraph (2)(a), (aa) and (b)”.

(a) Paragraph (10A)(d) was added by regulation 2(3)(c) of S.R. 1999 No. 391

(b) Paragraph (2)(da) was inserted by regulation 4(5) of S.R. 2005 No. 424

(c) Paragraph (3)(a)(ia) was inserted by regulation 2(1)(b) of S.R. 1999 No. 391 and amended by paragraph 13(a)(iii) of Schedule 2 to S.R. 2003 No. 195

(d) Paragraph (3A)(c) was added by regulation 2(3)(c) of S.R. 1999 No. 391 and amended by paragraph 13(c) of Schedule 2 to S.R. 2003 No. 195

(e) S.R. 2003 No. 28; relevant amending regulations are S.R. 2004 No. 394 and S.R. 2005 No. 580

(f) Sub-paragraph (j) was added by regulation 6(3) of S.R. 2004 No. 394

(g) Paragraph 2 was substituted by regulation 7(5) of S.R. 2005 No. 580

(h) Paragraph 12 was amended by regulation 30(c)(i) of S.R. 1988 No. 146, regulation 15(b) of S.R. 1988 No. 431, regulation 6(e) of S.R. 1989 No. 395, regulation 2(5)(b) of S.R. 1990 No. 387, regulation 10(4)(b)(i) of S.R. 1992 No. 6, regulation 2(9)(a)(i) of S.R. 1994 No. 327, regulation 2(12) of S.R. 1995 No. 67, regulation 2(8) of S.R. 1995 No. 367, regulation 8(3)(b) of S.R. 1998 No. 324, regulation 24(5)(e) of S.R. 2003 No. 191, paragraph 20(b) of Schedule 1 to S.R. 2003 No. 195, regulation 2(d)(i) of S.R. 2003 No. 367, regulation 2(c) of S.R. 2003 No. 413, regulation 4 of S.R. 2004 No. 213 and regulation 3(3) of S.R. 2005 No. 580

(5) In paragraph 2(2)(a) of Schedule 3(a) (further provisions in the case of patients) after “that section” there shall be inserted “, and nil is the prescribed additional amount for the purposes of subsection (3)(b)”.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations

6. In regulation 8(2) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(b) (funeral payments: supplementary) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) a qualifying young person within the meaning of section 138(c) of the Act (child and qualifying young person);”.

Sealed with the Official Seal of the Department for Social Development on 9th March 2006



John O'Neill

A 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 9th March 2006



Jack Layberry

A senior officer of the Department of Finance and Personnel

(a) Paragraph 2 was substituted by regulation 7(5) of S.R. 2005 No. 580

(b) S.R. 2005 No. 506

(c) Section 138 was substituted by section 2(2) of the Child Benefit Act 2005 (c. 6.); *see also* regulation 2 of S.I. 2006 No. 223

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”), the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the Housing Benefit Regulations”), the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”), the State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit Regulations”) and the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (“the Social Fund Regulations”).

Regulations 2 to 4 amend the Income Support Regulations, the Housing Benefit Regulations, and the Jobseeker’s Allowance Regulations so as to—

provide that a person aged under 60, who does not take a payment from the Board of the Pension Protection Fund (“PPF”) which would be available to them, is not treated as possessing the amount of any income or capital deferred;

provide that payments made by the Board of the PPF to a third party may be regarded as notional income and notional capital;

provide that payments from the Board of the PPF are not regarded as notional income or notional capital where the payment is not received by the claimant due to his or her bankruptcy.

Regulations 2 and 4 also amend the Income Support Regulations and the Jobseeker’s Allowance Regulations so as to provide that a person aged 60 or over, who opts not to take a payment from the PPF available to him, shall be treated as possessing the amount of any income or capital foregone from the date on which it could be expected to be acquired were an application to be made.

Regulation 2 also amends the Income Support Regulations to remove Schedules 3 and 3A which make transitional provision for claimants who were either in board and lodging accommodation or hostel dwellers following changes to income support and housing benefit in 1989.

Regulation 3 amends the Housing Benefit Regulations—

to exclude payments made by the Board of the PPF from the regulations relating to notional capital;

to ensure that people who have not attained the qualifying age for state pension credit are treated as possessing housing benefit at an altered rate in the same circumstances as those who have attained that age;

in relation to the date on which entitlement to housing benefit begins for people who live in hostels where rent is paid daily.

Regulation 3 also amends the Housing Benefit Regulations, as modified by the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 for people who have attained the qualifying age for state pension credit, so as to take into account as income, payments made by the Board of the PPF and to provide that payments made by the Board to a third party may be regarded as notional income.

Regulation 5 amends the State Pension Credit Regulations so as to—

add PPF periodic payments as defined in section 17(1) of the State Pension Credit Act (Northern Ireland) 2002 to the descriptions of income which are prescribed for the purposes of section 15(1)(j) of that Act;

protect transitional amounts paid to patients whose benefit is no longer reduced from 10th April 2006;

amend Schedule 2 to make a minor technical amendment to the sub-divisions in the definition of “disabled person”;

amend a provision specifying a nil amount of state pension credit for patients with a prison sentence.

Regulation 6 amends the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 so that a person in respect of whom child benefit may be paid is a person who is excluded from the “immediate family member” and the “nature and extent of contact” tests for the purposes of a claim for a funeral payment.

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, 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 in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

© Crown Copyright 2006

Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N2564. C3. 3/06. Gp. 130. 14567.

£3·00