
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 396

**The Social Security (Miscellaneous Amendments
No. 5) Regulations (Northern Ireland) 2007**

Amendment of the Income Support (General) Regulations

4.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 are amended in accordance with paragraphs (2) to (13).

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

- (a) omit the definition of “lower rate”(1);
- (b) in the definition of “maternity leave”(2) for “Articles 15 and 28 to 30 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976” substitute “Part IX of the Employment Rights (Northern Ireland) Order 1996(3)”; and
- (c) after the definition of “sports award”(4) insert—

““starting rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(5) (see section 989 of that Act);”.

(3) In regulation 5 (persons treated as engaged in remunerative work)—

- (a) in paragraph (5)(6) for “A person” substitute “Subject to paragraph (5A), a person”; and
- (b) after paragraph (5) insert—

“(5A) Paragraph (5) shall not apply to earnings disregarded under paragraph 1 of Schedule 8 to these regulations.”.

(4) In regulation 22A(1)(a)(7) (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) for “11, 12, 14, 15(c)(i) or (d)(i)” substitute “11 or 12”.

(5) In regulation 29(4B)(a)(8) (calculation of earnings derived from employed earner’s employment and income other than earnings) for “paragraph 5(4) of Schedule 3 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 23(1) of the Employment Rights (Northern Ireland) Order 1996”.

(6) In regulation 35(9) (earnings of employed earners)—

(a) in paragraph (1)—

- (i) in sub-paragraph (g) for “Article 32(2)(a) or (5) of the Industrial Relations (Northern Ireland) Order 1976 (remedies for unfair dismissal and compensation)”

(1) The definition of “lower rate” was inserted by regulation 4(2) of S.R. 1992 No. 403
(2) The definition of “maternity leave” was inserted by regulation 4(2)(c) of S.R. 1993 No. 373
(3) S.I. 1996/1919 (N.I. 16)
(4) The definition of “sports award” was inserted by regulation 2(2)(d) of S.R. 1999 No. 342
(5) 2007 c. 3
(6) Paragraph (5) was amended by regulation 3 of S.R. 1988 No. 431 and regulation 3 of S.R. 1989 No. 365
(7) Regulation 22A was inserted by regulation 13 of S.R. 1996 No. 199 and paragraph (1) was amended by Article 9(2)(a) of S.R. 1999 No. 371 (C. 28), regulation 4(2)(a) of S.R. 2000 No. 4 and paragraph 7 of the Schedule to S.R. 2002 No. 132
(8) Paragraph (4B) was inserted by regulation 9(c) of S.R. 1989 No. 365
(9) Regulation 35(1) was amended by regulation 11(a) of S.R. 1989 No. 365

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substitute “Article 146(4) or 151(3)(a) of the Employment Rights (Northern Ireland) Order 1996 (the remedies: orders and compensation, enforcement of order and compensation)”;

(ii) after sub-paragraph (g) insert—

“(gg) any payment or remuneration made under Article 60, 66, 96, 100 or 102 of the Employment Rights (Northern Ireland) Order 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to industrial tribunals);”, and

(iii) in sub-paragraph (h) for “Article 14(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (certain sums to be earnings for social security purposes)” substitute “section 112(3) of the Contributions and Benefits Act (certain sums to be earnings)”;

(b) in paragraph (3)—

(i) in sub-paragraph (a)(iii)(10) for “section 11(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 170(1) of the Employment Rights (Northern Ireland) Order 1996”, and

(ii) in sub-paragraph (b) for “paragraph 5(4) of Schedule 3 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 23(1) of the Employment Rights (Northern Ireland) Order 1996”.

(7) In regulation 39(1)(11) (deduction of tax and contributions for self-employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(8) In regulation 39D (deduction in respect of tax for participants in the self-employment route) in paragraphs (1)(c) and (2)(12) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(9) In regulation 42 (notional income)—

(a) omit “or” at the end of (6A)(b)(ii);

(b) at the end of paragraph (6A)(c)(13) add—

“; or

(d) to a claimant who is participating in a work placement approved by the Department for Employment and Learning (or a person providing services to that Department) before the placement starts.

(6AA) In paragraph (6A)(d) “work placement” means practical work experience which is not undertaken in expectation of payment.”; and

(c) in paragraph (8)(a)(14) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(10) For regulation 49(15) (calculation of capital in the United Kingdom) substitute—

(10) Paragraph (3) was added by regulation 11(b) of [S.R. 1989 No. 365](#) and sub-paragraph (a) was amended by regulation 4(b) of [S.R. 1997 No. 130](#)

(11) Regulation 39(1) was amended by regulation 4(7) of [S.R. 1992 No. 403](#), regulation 2(8) of [S.R. 1994 No. 327](#) and regulation 3(4) of [S.R. 2007 No. 306](#)

(12) Regulation 39D(2) was inserted by regulation 3(3) of [S.R. 1998 No. 182](#) and amended by regulation 14(3)(c) of [S.R. 2001 No. 151](#) and regulation 3(5)(b) of [S.R. 2007 No. 306](#)

(13) Paragraph (6A) was inserted by regulation 2(2)(b) and amended by regulation 2(2)(c) of [S.R. 1999 No. 390](#) and sub-paragraph (c) was amended by regulation 4(2)(a) of [S.R. 2004 No. 389](#)

(14) Paragraph (8)(a) was amended by regulation 4(8) of [S.R. 1992 No. 403](#), regulation 2(8) of [S.R. 1994 No. 327](#) and regulation 3(6)(f) of [S.R. 2007 No. 306](#)

(15) Regulation 49 was amended by Article 7(9) of [S.R. 1999 No. 472 \(C. 36\)](#)

“Calculation of capital in the United Kingdom

49. Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to sale, 10 per cent.; and
- (b) the amount of any encumbrance secured on it.”.

(11) In Schedule 8 (sums to be disregarded in the calculation of earnings)

(a) for paragraph 1(16) substitute—

“1.—(1) In the case of a claimant who has been engaged in remunerative work as an employed earner or, had the employment been in Northern Ireland, would have been so engaged—

- (a) any earnings, other than items to which sub-paragraph (2) applies, paid or due to be paid from that employment which terminated before the first day of entitlement to income support;
- (b) any earnings, other than a payment of the nature described in regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e)), paid or due to be paid from that employment which has not been terminated where the claimant is not—
 - (i) engaged in remunerative work, or
 - (ii) suspended from his employment.

(2) This sub-paragraph applies to—

- (a) any payment of the nature described in regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e)); and
- (b) any award, sum or payment of the nature described in—
 - (i) regulation 35(1)(g), (h) or (i) (in so far as it applies to regulation 35(1)(g) or (h)), or
 - (ii) Article 66 or 102 of the Employment Rights (Northern Ireland) Order 1996 (guarantee payments and suspension from work: complaints to industrial tribunals),

including any payment made following the settlement of a complaint to an industrial tribunal or of court proceedings.”; and

(b) for paragraph 2(17) substitute—

“2.—(1) In the case of a claimant to whom this paragraph applies, any earnings (other than a payment of the nature described in regulation 35(1)(e) or (i) (in so far as it applies to regulation 35(1)(e)) which relate to employment which ceased before the first day of entitlement to income support whether or not that employment has terminated.

(2) This paragraph applies to a claimant who has been engaged in part-time employment as an employed earner or, had the employment been in Northern Ireland, would have been so engaged; but it does not apply to a claimant who has been suspended from his employment.”.

(12) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(16) Paragraph 1 was amended by regulation 35(a) of S.R. 1988 No. 146, regulation 23(a) of S.R. 1988 No. 318, regulation 18 of S.R. 1989 No. 365, regulation 4(21)(a) of S.R. 1993 No. 373 and regulation 24(7)(a) of S.R. 2003 No. 191

(17) Paragraph 2 was substituted by regulation 4(21)(b) of S.R. 1993 No. 373

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- (a) in paragraph 11(1)(**18**) at the end add “or a payment corresponding to such an education maintenance allowance made pursuant to section 3 of the Employment and Training Act (Northern Ireland) 1950(**19**)”;
 - (b) in paragraph 19(**20**) for sub-paragraphs (a) and (b) substitute—
 - “(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
 - (b) where the aggregate of any such payments is £20 or more per week, £20.”; and
 - (c) in paragraph 46(**21**) at the end add “or reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977(**22**) (rate relief in respect of dwellings)”.
- (13) In Schedule 10 (capital to be disregarded)—
- (a) in paragraph 36(**23**) after “(reduction of liability for council tax)” insert “or reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief in respect of dwellings)”;
 - (b) in paragraph 56(**24**) at the end add “or a payment corresponding to such an education maintenance allowance made pursuant to section 3 of the Employment and Training Act (Northern Ireland) 1950”.

Commencement Information

- I1** Reg. 4(1)-(11)(12)(c)(13)(a) in operation at 1.10.2007, see [reg. 1\(1\)](#)
- I2** Reg. 4(12)(a) in operation at 7.4.2008, see [reg. 1\(2\)](#)
- I3** Reg. 4(12)(b) in operation at 7.4.2008 for specified purposes, see [reg. 1\(3\)](#)
- I4** Reg. 4(13)(b) in operation at 7.4.2008, see [reg. 1\(2\)](#)

- (**18**) Paragraph 11 was substituted by regulation 5(3) of [S.R. 2004 No. 300](#)
- (**19**) [1950 c.29 \(N.I.\)](#); section 3 was amended by Article 16 of, and Part I of Schedule 4 to, the Social Security (Northern Ireland) Order 1980 ([S.I. 1980/870 \(N.I. 8\)](#)) and Article 35 of, and paragraph 1 of Schedule 3 to, the Industrial Training (Northern Ireland) Order 1984 ([S.I. 1984/1159 \(N.I. 9\)](#))
- (**20**) Paragraph 19 was substituted by regulation 4(9)(b) of [S.R. 1994 No. 77](#) and amended by regulation 2(12)(c) of [S.R. 1995 No. 86](#) and the amount in sub-paragraph (b) was substituted by Article 16(9) of [S.R. 2007 No. 153](#)
- (**21**) Paragraph 46 was amended by regulation 4(7)(c) of [S.R. 1993 No. 120](#)
- (**22**) [S.I. 1977/2157 \(N.I. 28\)](#); Article 30A was inserted by Article 14 of the Rates (Amendment) (Northern Ireland) Order 2006 ([S.I. 2006/2954 \(N.I. 18\)](#))
- (**23**) Paragraph 36 was amended by regulation 4(8)(b) of [S.R. 1993 No. 120](#)
- (**24**) Paragraph 56 was substituted by regulation 5(4) of [S.R. 2004 No. 300](#)

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Changes and effects yet to be applied to :

- reg. 4(2)(c) revoked by [S.R. 2009/92 Sch.](#)
- reg. 4(5) revoked by [S.R. 2008/112 Sch.](#)
- reg. 4(6)(b)(ii) revoked by [S.R. 2008/112 Sch.](#)
- reg. 4(7) revoked by [S.R. 2009/92 Sch.](#)
- reg. 4(8) revoked by [S.R. 2009/92 Sch.](#)
- reg. 4(9)(c) revoked by [S.R. 2009/92 Sch.](#)
- reg. 4(12)(a) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)
- reg. 4(12)(b) coming into force by [S.R. 2007/396 reg. 1\(3\)](#)
- reg. 4(13)(b) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)