

This Statutory Rule has been made in consequence of a defect in S.R. 2008 No. 503 and is being issued free of charge to all known recipients of that Statutory Rule.

STATUTORY RULES OF NORTHERN IRELAND

2009 No. 426

SOCIAL SECURITY

**The Social Security (Housing Costs Special Arrangements)
(Amendment) Regulations (Northern Ireland) 2009**

Made - - - - 17th December 2009

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), 131(1), 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 6(5) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(b), and now vested in it(c), sections 2(3)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(d) and sections 4(2)(a) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Housing Costs Special Arrangements) (Amendment) Regulations (Northern Ireland) 2009 and, subject to paragraph (2), shall come into operation on 5th January 2010.

(2) Regulations 4, 5 and 6(a), in so far as they relate to a particular person, shall come into operation on the first day of the first benefit week to commence for that person on or after 5th January 2010.

(3) In these Regulations—

“benefit week” in paragraph (2) has the same meaning as in regulation 1(4) of the principal Regulations;

“the principal Regulations” means the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008(f).

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

(a) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21)

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

(d) 2002 c. 14 (N.I.)

(e) 2007 c. 2 (N.I.)

(f) S.R. 2008 No. 503

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

Amendment of regulation 3 of the principal Regulations

2. In regulation 3(3) and (4) (application) of the principal Regulations for “he or she” in both places where it occurs substitute “that person”.

Amendment of regulation 5 of the principal Regulations

3. In regulation 5(a) (modification of the Jobseeker’s Allowance Regulations) of the principal Regulations in sub-paragraph (3)(a) of the new paragraph 4A (housing costs: limitation applicable to qualifying loans) to be treated as inserted in the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(a) omit “or her”.

Amendment of regulation 8 of the principal Regulations

4. For regulation 8 (application and interpretation) of the principal Regulations substitute—

“8.—(1) This Part applies on and after 5th January 2010 to a person (“C”) who—

- (a) claims a relevant benefit after 4th January 2009, and
- (b) satisfies any of the following conditions.

(2) The first condition is that Part 2 applied to C at any time.

(3) The second condition is that this Part (as it has effect on and after 5th January 2010) applied to C in relation to a previous award.

(4) The third condition is that—

- (a) neither C nor C’s partner has been awarded a relevant benefit as the result of an earlier claim (whether the award was made before or on or after 5th January 2009);
- (b) neither C nor C’s partner is in receipt of state pension credit before the date on which C’s claim is made or treated as made, and
- (c) C does not fall to be treated under a linking rule as being in continuous receipt of the benefit to which C’s claim relates in respect of a period which begins on or before 4th January 2009 and which ends immediately before the date on which C’s claim is made or is treated as made.

(5) The fourth condition is that—

- (a) C is not in receipt of a relevant benefit immediately before the date on which a claim made by C after 4th January 2009 is made or treated as made;
- (b) neither C nor C’s partner is in receipt of state pension credit before that claim is made or treated as made;
- (c) C or C’s partner was awarded a relevant benefit as the result of a claim made or treated as made before that claim, and
- (d) C does not fall to be treated under a linking rule as being in continuous receipt of a relevant benefit during the period which falls immediately between the date on which a claim to which this provision relates is made or treated as made and the last period to occur before that date in respect of which C was in receipt of a relevant benefit (whether as a single person or as a member of a couple or polygamous marriage).

(6) The fifth condition is that—

- (a) C or C’s partner is in receipt of state pension credit before the date on which any claim for a relevant benefit made by C or C’s partner after 4th January 2009 is made or treated as made, and
- (b) none of the following provisions apply in relation to any such claim—

(a) S.R. 1996 No. 198; relevant amending Regulations are S.R. 2000 No. 350, S.R. 2005 Nos. 458 and 536 and S.R. 2007 No. 475

- (i) paragraph 1A(1A)(a) (previous entitlement to income-based jobseeker’s allowance, income-related employment and support allowance or state pension credit) of Schedule 3 (housing costs) to the Income Support Regulations;
 - (ii) paragraph 1A(1ZA)(b) or (1B)(c) (previous entitlement to income support, income-related employment and support allowance or state pension credit) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations;
 - (iii) paragraph 3(2)(d) (previous entitlement to other income-related benefits) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations.
- (7) In this regulation—
- a “linking rule” means a provision of—
 - (a) paragraph 14 (linking rule) of Schedule 3 (housing costs) to the Income Support Regulations;
 - (b) paragraph 13 (linking rule) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations; or (as the case may be)
 - (c) paragraph 15 (linking rules) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations;
- “partner” has the same meaning as in regulation 1(2)(e) (citation, commencement and interpretation) of the Jobseeker’s Allowance Regulations.”.

Amendment of Regulation 10 of the principal Regulations

5. In regulation 10 (modification of the Jobseeker’s Allowance Regulations) of the principal Regulations for paragraph (b) substitute—

“(b) after paragraph 4(f) (housing costs not met) there were inserted—

“Housing costs: limitation applicable to qualifying loans

4A.—(1) Except as mentioned below, no amount may be met in respect of housing costs under paragraph 14 or 15 after the claimant has been in receipt of housing costs under either or both of those paragraphs (“relevant housing costs”) for a cumulative total of 104 weeks, beginning on or after 5th January 2009.

(2) Sub-paragraphs (3) to (6) apply for the purposes of sub-paragraph (1).

(3) No week in which the appropriate amount specified in paragraph 10(4) is £100,000 in relation to the claimant is to count towards the 104 week total.

(4) Where sub-paragraph (5) applies to the claimant, relevant housing costs awarded to him in respect of a previous award of a jobseeker’s allowance are to be disregarded.

(5) This sub-paragraph applies to the claimant where he does not fall to be treated under paragraph 13 (linking rule) as being in receipt of a jobseeker’s allowance for a continuous period beginning with the first day of the last period in respect of which he was not in receipt of a jobseeker’s allowance and ending immediately before his most recent claim is made or is treated as made.

(a) Paragraph 1A(1A) was inserted by regulation 2(3)(a)(iii) of S.R. 2007 No. 475
 (b) Paragraph 1A(1ZA) was inserted by regulation 4(a)(iii) of S.R. 2007 No. 475
 (c) Paragraph 1A(1B) was inserted by regulation 4(a)(iv) of S.R. 2007 No. 475
 (d) Paragraph 3(2) was amended by regulation 3(30)(b) of S.R. 2008 No. 413
 (e) The definition of “partner” was amended by paragraph 1 of Schedule 2 to, S.R. 2000 No. 350 and paragraph 23(2)(c) of Schedule 3 to, S.R. 2005 No. 536
 (f) Paragraph 4 was amended by paragraph 54(4) of Schedule 2 to, S.R. 2000 No. 350 and paragraph 9(b) of Schedule 3 to, S.R. 2005 No. 458

- (6) Sub-paragraph (1) does not apply where—
- (a) the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple, was entitled to income support or an employment and support allowance before one of them becomes entitled to a jobseeker's allowance, and
 - (b) 12 weeks or less has elapsed since the last day of that entitlement and the first day of entitlement to a jobseeker's allowance.”.”.

Amendment of regulation 12 of the principal Regulations

6. In regulation 12 (modifications relating to certain persons who claim State Pension Credit) of the principal Regulations—

- (a) in paragraph (1)(c) for “Part 2 or 3 applies” substitute—
“—
 - (i) Part 2 applies, or
 - (ii) Part 3 (as it has effect, in relation to the person or that person's partner, on and after 5th January 2010) applies or would have applied had the person claiming state pension credit remained entitled to a relevant benefit.”;
- (b) in paragraph (1)(c), (d) and (e) for “his or her” substitute “that person's”.

Sealed with the Official Seal of the Department for Social Development on 17th December 2009

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008 (“the principal Regulations”) which relate to the payment of housing costs to income support, jobseeker’s allowance, state pension credit and employment and support allowance claimants. Under those provisions help can be provided with mortgage interest on a qualifying loan taken out to purchase a home.

The principal Regulations modify the housing costs provisions in the Income Support (General) Regulations (Northern Ireland) 1987, Jobseeker’s Allowance Regulations (Northern Ireland) 1996 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 in relation to certain claimants, in particular so that the waiting period before housing costs can be met is 13 weeks and the capital limit for qualifying loans is £200,000. With some exceptions, interest on a qualifying loan is limited to 104 weeks for jobseeker’s allowance claimants.

Regulations 2 and 3 correct minor errors in regulations 3 and 5(a) of the principal Regulations.

Regulation 4 substitutes regulation 8 of the principal Regulations which concerns the application of Part 3 of those Regulations to certain persons who claim income support, a jobseeker’s allowance, or an employment and support allowance (“a relevant benefit”) after 4th January 2009.

Except for certain people who are deemed to have been in receipt of benefit on or before 4th January 2009 under the housing costs rules, the effect of the substitution is that Part 3 of the principal Regulations applies where neither the claimant nor the claimant’s partner has previously been awarded a relevant benefit (or state pension credit) even though the claimant may be treated as having been in receipt of benefit in respect of a past period.

A further effect of the substitution made by regulation 4 is to clarify that Part 3 of the principal Regulations also applies to claimants who have a break in entitlement and who make a repeat claim after 4th January 2009 which does not link to an earlier claim under the housing costs linking rules.

Regulation 5 substitutes a new provision for regulation 10(b) of the principal Regulations. Regulation 10(b) modifies Schedule 2 (housing costs) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 by inserting paragraph 4A which limits to 104 weeks the number of weeks that certain people who claim a jobseeker’s allowance after 4th January 2009 can receive assistance with interest on a qualifying loan. The effect of the substitution is to clarify that previous housing costs do not count towards the total where there has been a break in entitlement which does not link to an earlier claim.

Regulation 6 makes minor amendments to regulation 12 (modifications relating to certain persons who claim State Pension Credit) of the principal Regulations in consequence of these Regulations. It also corrects a minor error in the principal Regulations.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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