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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 291**

**The Social Security (Loss of Benefit)  
(Amendment) Regulations (Northern Ireland) 2011**

**Amendment of the Social Security (Loss of Benefit) Regulations**

2.—(1) The Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002<sup>(1)</sup> are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)—

(i) in the definition of “disqualification period”—

(aa) after “section” insert “5B(11) or”, and

(bb) for “regulation 2” substitute “regulations 1A and 2”;

(ii) after the definition of “disqualification period” insert—

““the determination day” means (subject to paragraph (2A)) the day on which the Department determines that a restriction under—

(a) section 5B or 6 of the Act would be applicable to the offender were the offender in receipt of a sanctionable benefit;

(b) section 7 of the Act would be applicable to the offender were the offender 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, state pension credit, employment and support allowance or housing benefit.”;

(iii) at the end of the definition of “the Jobseeker’s Allowance Regulations” omit “and”;

(iv) in the definition of “offender” after “section” insert “5B or”;

(v) after the definition of “offender” add—

““pay day” in relation to a sanctionable benefit means the day on which that benefit is due to be paid; and

“relevant authority” in relation to housing benefit means the relevant authority administering the benefit of the offender or the offender’s family member.”;

(b) after paragraph (2) insert—

“(2A) Where, for the purposes of section 5B of the Act, the disqualifying event is an agreement to pay a penalty as referred to in section 5B(1)(b) of the Act, the determination day is the 28th day after the day referred to in the definition of that term in paragraph (2).”.

(3) For regulation 2(2) (disqualification period) substitute—

**“Disqualification period: section 5B(11) of the Act**

**1A.—**(1) The first day of the disqualification period for the purposes of section 5B(11) of the Act (“DQ-day”) shall be determined as follows.

(2) This paragraph applies where on the determination day—

- (a) the offender is in receipt of a sanctionable benefit;
- (b) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker’s allowance; or
- (c) the offender’s family member is in receipt of income support, jobseeker’s allowance, state pension credit, employment and support allowance or housing benefit.

(3) Where paragraph (2) applies and paragraph (4) does not apply (but subject to paragraph (7))—

- (a) in relation to a sanctionable benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the determination day; and
- (b) in relation to a sanctionable benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the determination day.

(4) This paragraph applies where on the determination day the offender or (as the case may be) the offender’s family member is in receipt of—

- (a) housing benefit; and
- (b) no other sanctionable benefit.

(5) Where paragraph (4) applies—

- (a) in relation to housing benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is notified by the relevant authority that the offender or the offender’s family member is in receipt of housing benefit or has been awarded housing benefit; and
- (b) in relation to housing benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is so notified by the relevant authority.

(6) Where neither paragraph (2) nor paragraph (4) applies, DQ-day is the first day after the end of the period of 28 days beginning with the determination day.

(7) Where on the determination day—

- (a) paragraph (2) applies in the case of an offender or (as the case may be) the offender’s family member, but
- (b) that person ceases to be in receipt of a benefit referred to in that paragraph before the first day of the disqualification period that would apply by virtue of paragraph (3),

DQ-day is the first day after the end of the period of 28 days beginning with the determination day.

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(2) Regulation 2 was amended by regulation 25(2) of S.R. 2003 No. 28, Article 3(2) of S.R. 2008 No. 147 (C. 7) and regulation 29(2) of S.R. 2008 No. 286

**Disqualification period: section 6(6) of the Act**

2.—(1) The first day of the disqualification period for the purposes of section 6(6) of the Act (“DQ-day”) shall be determined as follows.

(2) This paragraph applies where on the determination day—

- (a) the offender is in receipt of a sanctionable benefit;
- (b) the offender is a member of a joint-claim couple which is in receipt of a joint-claim jobseeker’s allowance; or
- (c) the offender’s family member is in receipt of income support, jobseeker’s allowance, state pension credit, employment and support allowance or housing benefit.

(3) Where paragraph (2) applies and paragraph (4) does not apply—

- (a) in relation to a sanctionable benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the determination day; and
- (b) in relation to a sanctionable benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the determination day.

(4) This paragraph applies where on the determination day the offender or (as the case may be) the offender’s family member is in receipt of—

- (a) housing benefit; and
- (b) no other sanctionable benefit.

(5) Where paragraph (4) applies—

- (a) in relation to housing benefit which is paid in arrears, DQ-day is the day following the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is notified by the relevant authority that the offender or the offender’s family member is in receipt of housing benefit or has been awarded housing benefit; and
- (b) in relation to housing benefit which is paid in advance, DQ-day is the first pay day after the end of the period of 28 days beginning with the first day after the determination day on which the Department is so notified by the relevant authority.

(6) Where neither paragraph (2) nor paragraph (4) applies, DQ-day is the first day after the end of the period of 28 days beginning with the determination day on which the Department decides to award—

- (a) a sanctionable benefit to the offender;
- (b) a joint-claim jobseeker’s allowance to a joint-claim couple of which the offender is a member; or
- (c) income support, jobseeker’s allowance, state pension credit or employment and support allowance to the offender’s family member.

(7) For the purposes of the preceding provisions of this regulation, DQ-day is to be no later than 5 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.”.

(4) In regulation 3(3) (reduction of income support and income-related employment and support allowance)—

- (a) in paragraph (1) for “to (4)” substitute “and (3)”;

- (b) omit paragraph (4).
- (5) In regulation 5(3) (meaning of “person in hardship”)—
  - (a) after sub-paragraph (a) add “or”;
  - (b) in sub-paragraph (b) after “Article” insert “10 or” and before “circumstances” insert “attendance, information and evidence;” and
  - (c) omit sub-paragraph (c) and the word “or” immediately before it.
- (6) In regulation 6(2) (circumstances in which an income-based jobseeker’s allowance is payable to a person who is a person in hardship) before “6(2)” insert “5B(5) or ”.
- (7) In regulation 7(2) (further circumstances in which an income-based jobseeker’s allowance is payable to a person who is a person in hardship) before “6(2)” insert “5B(5) or”.
- (8) In regulation 9 (provision of information) before “6(4)(b)” insert “5B(7)(b) and”.
- (9) In regulation 11(4) (application of Part and meaning of “couple in hardship”)—
  - (a) in paragraph (2) for “regulation 13” substitute “regulation 12”;
  - (b) in paragraph (3) for “regulation 14” substitute “regulation 13”;
  - (c) in paragraph (4)(b)—
    - (i) after “subject” insert “or are to be treated as subject”;
    - (ii) after “Article” insert “10 or”, and
    - (iii) before “denial” insert “attendance, information and evidence;”.
- (10) In regulation 18 (circumstances where housing benefit is payable) after “income support” insert “, an income-related employment and support allowance, state pension credit.”.
- (11) After regulation 19 (social security benefits not to be sanctionable benefits) insert—

**“Benefits to be treated as neither sanctionable nor disqualifying**

**19A.** Each of the following benefits is to be treated as neither a sanctionable benefit nor a disqualifying benefit—

- (a) statutory adoption pay;
  - (b) statutory paternity pay;
  - (c) health in pregnancy grant.”.
- (12) In regulation 20 (deductions from benefits) before “6” insert “5B,”.