
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 79

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

PART IV

HARDSHIP FOR JOINT-CLAIM COUPLES

Application of Part and meaning of “couple in hardship”

11.—(1) This Part applies in respect of any part of the disqualification period when section 7(2) of the Act would otherwise apply.

(2) In this Part, a “couple in hardship” means, for the purposes of regulation 13, a joint-claim couple, other than a couple to whom paragraph (4) or (5) applies, who are claiming a jobseeker’s allowance jointly where at least one member of that couple is an offender and where—

- (a) the woman member of the joint-claim couple is pregnant and the Department is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship;
- (b) one or both members of the couple are members of a polygamous marriage, one member of the marriage is pregnant and the Department is satisfied that, unless a joint-claim jobseeker’s allowance is paid, she will suffer hardship;
- (c) the award of a joint-claim jobseeker’s allowance includes, or would, if a claim for a jobseeker’s allowance from the couple were to succeed, have included in their applicable amount a disability premium and the Department is satisfied that, unless a joint-claim jobseeker’s allowance is paid, the member of the couple who would have caused the disability premium to be applicable to the couple would suffer hardship;
- (d) either member of the couple suffers from a chronic medical condition which results in functional capacity being limited or restricted by physical impairment and the Department is satisfied that—
 - (i) the suffering has already lasted or is likely to last, for not less than 26 weeks, and
 - (ii) unless a joint-claim jobseeker’s allowance is paid, the probability is that the health of the person suffering would, within 2 weeks of the Department making its decision, decline further than that of a normally healthy adult and the member of the couple who suffers from that condition would suffer hardship;
- (e) either member of the couple, or where a member of that couple is married to more than one person under a law which permits polygamy, one member of that marriage, devotes a considerable portion of each week to caring for another person who—
 - (i) is in receipt of an attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act;

- (ii) has claimed either attendance allowance or disability living allowance, but only for so long as the claim has not been determined, or for 26 weeks from the date of claiming, whichever is the earlier; or
 - (iii) has claimed either attendance allowance or disability living allowance and has an award of either attendance allowance or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act for a period commencing after the date on which that claims was made, and the Department is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the person providing the care will not be able to continue doing so unless a joint-claim jobseeker's allowance is paid; or
 - (f) Article 18 of the Jobseekers Order applies to either member of the couple by virtue of a direction issued by the Department, except where the member of the joint-claim couple to whom the direction applies does not satisfy the requirements of Article 3(2)(a) to (c) of that Order;
 - (g) Article 5A(1)(e)(ii) of the Jobseekers Order⁽¹⁾ (member of a joint-claim couple under the age of 18) applies to either member of the couple and the Department is satisfied that unless a joint-claim jobseeker's allowance is paid, the couple will suffer hardship; or
 - (h) one or both members of the couple is a person—
 - (i) who, pursuant to the Children Order, was being looked after by an authority;
 - (ii) with whom the authority had a duty, pursuant to that Order, to take reasonable steps to keep in touch, or
 - (iii) who, pursuant to that Order, qualified for advice or assistance from an authority, but in respect of whom head (i), (ii) or (iii), as the case may be, had not applied for a period of 3 years or less as at the date on which the requirements of regulation 16 are complied with; and
 - (iv) who, as at the date on which the requirements of regulation 16 are complied with, is under the age of 21.
- (3) Except in the case to which paragraph (4) or (5) applies, a joint-claim couple shall, for the purposes of regulation 14, be deemed to be a couple in hardship where the Department is satisfied, after taking account of the factors set out in paragraph (6) in so far as they are appropriate to the particular circumstances of the case, that the couple will suffer hardship unless a joint-claim jobseeker's allowance is paid.
- (4) In paragraphs (2) and (3), a joint-claim couple shall not be deemed to be a “couple in hardship”—
- (a) where one member of the couple is entitled to income support or falls within a category of persons prescribed for the purposes of section 123(1)(e) of the Benefits Act; or
 - (b) during a period in respect of which it has been determined that both members of the couple are subject to sanctions for the purposes of Article 22A of the Jobseekers Order⁽²⁾ (denial or reduction of joint-claim jobseeker's allowance).
- (5) Paragraph (2)(e) shall not apply in a case where the person being cared for resides in a residential care home or nursing home.

(1) Article 5A was inserted by section 56 of, and paragraph 5(2) of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(2) Article 22A was inserted by Article 56 of, and paragraph 14 of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999

(6) Factors which, for the purposes of paragraphs (2) and (3), the Department is to take into account in determining whether a joint-claim couple will suffer hardship are—

- (a) the presence in the joint-claim couple of a person who satisfies the requirements for a disability premium specified in paragraphs 20H and 20I of Schedule 1 to the Jobseeker's Allowance Regulations⁽³⁾;
- (b) the resources which, without a joint-claim jobseeker's allowance, are likely to be available to the joint-claim couple, the amount by which these resources fall short of the amount applicable in their case in accordance with regulation 16 (applicable amount of joint-claim couple in hardship cases), the amount of any resources which may be available to the joint-claim couple from any person in the couple's household who is not a member of the family and the length of time for which those factors are likely to persist;
- (c) whether there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the joint-claim couple, or will be available at considerably reduced levels, the hardship that will result and the length of time those factors are likely to persist.

(7) In determining the resources available to the offender's family under paragraph (6)(b), any training premium or top-up payment paid pursuant to the Employment and Training Act shall be disregarded.

Circumstances in which a joint-claim jobseeker's allowance is payable where a joint-claim couple is a couple in hardship

12.—(1) This regulation applies where a joint-claim couple is a couple in hardship within the meaning of regulation 11(2) and is subject to the provisions of regulations 14 and 15.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 7(2) of the Act prevents payment of a joint-claim jobseeker's allowance to the couple or section 7(3) of the Act reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance shall be payable under this paragraph only if and for so long as—

- (a) the joint-claim couple satisfy the other conditions of entitlement to a joint-claim jobseeker's allowance; or
- (b) one member satisfies those conditions and the other member comes within any paragraph in Schedule A1 to the Jobseeker's Allowance Regulations⁽⁴⁾ (categories of members not required to satisfy conditions in Article 3(2B)(b) of the Order).

Further circumstances in which a joint-claim jobseeker's allowance is payable to a couple in hardship

13.—(1) This regulation applies to a couple in hardship falling within regulation 11(3) and is subject to the provisions of regulations 14 and 15.

(2) A joint-claim jobseeker's allowance shall be payable to a couple in hardship even though section 7(2) of the Act prevents payment of a joint-claim jobseeker's allowance to the couple or section 7(3) of the Act reduces the amount of a joint-claim jobseeker's allowance payable to the couple but the allowance—

- (a) shall not be payable under this paragraph in respect of the first 14 days of the prescribed period; and
- (b) shall be payable thereafter only where the conditions of entitlement to a joint-claim jobseeker's allowance are satisfied or where one member satisfies those conditions and the

(3) Paragraphs 20H and 20I were inserted by paragraph 53(4) of Schedule 2 to [S.R. 2000 No. 350](#)

(4) Schedule A1 was inserted by Schedule 1 to [S.R. 2000 No. 350](#) and amended by regulation 2(6) of [S.R. 2001 No. 120](#)

other member comes within any paragraph in Schedule A1 to the Jobseeker's Allowance Regulations (categories of members not required to satisfy conditions in Article 3(2B)(b) of the Order).

Conditions for payment of a joint-claim jobseeker's allowance

14.—(1) A joint-claim jobseeker's allowance shall not be payable in accordance with regulation 12 or 13 except where either member of the couple has—

- (a) furnished on a form approved for the purpose by the Department or in such other form as it may in any particular case approve, a statement of the circumstances he relies upon to establish entitlement under regulation 11(2) or, as the case may be, (3); and
- (b) signed the statement.

(2) The completed and signed form shall be delivered by a member of the couple to such office as the Department may specify.

Provision of information

15. For the purposes of section 7(4)(b) of the Act, a member of the couple shall provide to the Department information as to the circumstances of the alleged hardship of the couple.

Applicable amount of joint-claim couple in hardship cases

16.—(1) The weekly applicable amount of a couple to whom a joint-claim jobseeker's allowance is payable in accordance with this Part shall be reduced by a sum equivalent to 40 per cent. or, in a case where a member of the joint-claim couple is either pregnant or seriously ill or where a member of the joint-claim couple is a member of a polygamous marriage and one of those members is either pregnant or seriously ill, 20 per cent. of the following amount—

- (a) where one member of the joint-claim couple or of the polygamous marriage is aged not less than 18 but less than 25 and the other member or, in the case of a polygamous marriage, each other member, is a person under 18 to whom Article 5A(1)(e)(ii) of the Jobseekers Order applies or is not subject to a direction under Article 18 of that Order, the amount specified in paragraph 1(1)(d) of Schedule 1 to the Jobseeker's Allowance Regulations;
- (b) where one member of the joint-claim couple or at least one member of the polygamous marriage (other than a member of a couple or polygamous marriage to whom subparagraph (a) applies) is aged not less than 18, the amount specified in paragraph 1(1)(e) of Schedule 1 to the Jobseeker's Allowance Regulations.

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be rounded to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.