
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 359

**The Social Security (Miscellaneous Amendments
No. 4) Regulations (Northern Ireland) 2006**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2006 and, subject to paragraphs (2) to (5), shall come into operation on 1st October 2006.

(2) Regulations 5(2), (7), (8) and (9)(c) and (d), 6(2), (5), (6) and (9), 13(2), (4), (6), (9), (10), (13) and (14)(c) and (d) and 14(2), (3), (4) and (5) shall come into operation on 2nd October 2006.

(3) Regulations 5(3), (4), (9)(a), (b), (e) and (f) and (10), 6(3), (4), (10) and (11), 13(7), (8), (14)(a), (b), (e) and (f) and (15) and 14(6) in so far as they relate to a particular beneficiary shall come into operation on the first day of the first benefit week to commence for that beneficiary on or after 2nd October 2006.

(4) Regulation 5(5)(a) shall come into operation on 7th October 2006.

(5) Regulations 2, 5(6), 6(7) and (8), 9(2), 11, 12(3) and (5), 13(12) and 15 shall come into operation on 9th October 2006.

(6) In paragraph (3) “benefit week” has the same meaning as in—

- (a) regulation 2(1)(1) of the Income Support (General) Regulations (Northern Ireland) 1987(2) so far as it relates to regulation 5;
- (b) regulation 2(1) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(3) so far as it relates to regulation 6;
- (c) regulation 1(2)(4) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(5) so far as it relates to regulation 13;
- (d) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(6) so far as it relates to regulation 14.

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

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- (1) The definition of “benefit week” was amended by regulation 2(a) of S.R. 1988 No. 318
 - (2) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 318 and 431, S.R. 1990 Nos. 131, 305 and 346, S.R. 1993 Nos. 165 and 373, S.R. 1994 No. 327, S.R. 1995 Nos. 301 and 434, S.R. 1996 Nos. 93, 199 and 405, S.R. 1997 Nos. 165 and 412, S.R. 1998 Nos. 2, 81, and 324, S.R. 1999 Nos. 249 and 315, S.R. 2000 No. 242, S.R. 2001 No. 78, S.R. 2002 Nos. 132 and 299, S.R. 2005 No. 458 and S.R. 2006 No. 234
 - (3) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 424, S.R. 1990 Nos. 136 and 345, S.R. 1994 No. 335, S.R. 1996 Nos. 93, 111 and 181, S.R. 1997 No. 412, S.R. 1998 Nos. 2, 81 and 324, S.R. 2001 Nos. 215 and 238, S.R. 2003 Nos. 197 and 418, S.R. 2004 Nos. 46 and 144 and S.R. 2005 No. 444
 - (4) The definition of “benefit week” was amended by regulation 2(2) of S.R. 1996 No. 358 and regulation 2(2)(a) of S.R. 1996 No. 503
 - (5) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 1997 Nos. 130 and 412, S.R. 1998 Nos. 2, 81 and 324, S.R. 1999 Nos. 249 and 315, S.R. 2000 Nos. 242 and 350, S.R. 2001 No. 78, S.R. 2002 Nos. 132 and 299, S.R. 2005 No. 458 and S.R. 2006 No. 234
 - (6) S.R. 2003 No. 28; relevant amending Rules are S.R. 2006 Nos. 104 and 109
 - (7) 1954 c. 33 (N.I.)

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

2. In regulation 3A of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(8) (calculating periods of incapacity for work for welfare to work beneficiaries entitled to an addition to long-term incapacity benefit) for "52 weeks" substitute "104 weeks".

Amendment of the Social Security (General Benefit) Regulations

3. In regulation 14 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(9) (earnings level for the purpose of unemployability supplement) for "£4,212.00" substitute "£4,472.00".

Amendment of the Social Security (Severe Disablement Allowance) Regulations

4. In regulation 3(1) of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(10) (conditions relating to residence and presence) omit from the word "and" after sub-paragraph (a)(iii) to the end.

Amendment of the Income Support (General) Regulations

5.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 35(1)(k)(11) (earnings of employed earners) for "regulation 18(22) to (25) of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (calculation of earnings)" substitute "Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001"(12).

(3) In regulation 48(4)(13) (income treated as capital) for "or 25 to 28" substitute ", 25 to 28 or 43".

(4) In regulation 65(14) (relationship with amounts to be disregarded under Schedule 9) omit from "and any other income" to the end.

(5) In Schedule 1B(15) (prescribed categories of person)—

(a) omit paragraph 16(16) (certain persons aged 50 who have not been in remunerative work for 10 years); and

(b) for paragraph 19(17) (persons required to attend a court or tribunal) substitute—

"Persons required to attend a court or tribunal

19.—(1) A person who is required to attend a court or tribunal as a justice of the peace, a lay magistrate, a party to any proceedings, a witness or a juror.

(2) In this paragraph "tribunal" means—

(a) any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992(18); or

(8) S.R. 1979 No. 243; regulation 3A was inserted by regulation 5 of S.R. 1998 No. 324

(9) S.R. 1984 No. 92; relevant amending Regulations are S.R. 2005 No. 415

(10) S.R. 1984 No. 317; regulation 3(1) was substituted by regulation 2 of S.R. 1992 No. 114 and amended by regulation 4(a) of S.R. 2000 No. 71

(11) Sub-paragraph (k) was added by regulation 2(4)(a) of S.R. 1999 No. 249

(12) S.I. 2001/1004

(13) Paragraph (4) was amended by regulation 10(a) of S.R. 1988 No. 431

(14) Regulation 65 was amended by regulation 12 of S.R. 1990 No. 131 and regulation 7(a) of S.R. 1996 No. 93

(15) Schedule 1B was inserted by regulation 22 of, and Schedule 1 to, S.R. 1996 No. 199

(16) Paragraph 16 was amended by regulation 2 of S.R. 1997 No. 165

(17) Paragraph 19 was substituted by regulation 2 of S.R. 2006 No. 234

(18) 1992 c. 53

- (b) any tribunal established under an enactment.”.
- (6) In—
- (a) paragraphs 10(4)(**19**) and 12(1A)(**20**) of Schedule 2 (applicable amounts); and
 - (b) paragraphs 7(10)(**21**) and 14(3AA)(b)(**22**) and (10)(**23**) of Schedule 3 (housing costs), for “52 weeks” substitute “104 weeks”.
- (7) In Schedule 3(**24**) (housing costs)—
- (a) after paragraph 1(3)(b)(**25**) add—
 - “; or
 - (c) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002(**26**).”;
 - (b) in paragraph 3(7)(c) (circumstances in which a person is to be treated as occupying a dwelling as his home) for head (ii) substitute—
 - “(ii) the move was delayed pending the outcome of an application under Part VIII of the Contributions and Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—
 - (aa) a member of the claimant’s family is aged five or under,
 - (bb) the claimant’s applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2 (applicable amounts), or
 - (cc) a child tax credit is paid for a member of the claimant’s family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002, or”;
 - (c) in paragraph 7 (transitional protection) after sub-paragraph 4 insert—
 - “(4A) For the purposes of sub-paragraphs (3) and (4), there is an increase in the amount of existing housing costs where in any benefit week, those costs are higher than they were in the previous benefit week (whether or not those costs are higher than they were in the second benefit week).”.
- (8) In paragraphs 7(1)(d) and 15A(a)(**27**) of Schedule 8 (sums to be disregarded in the calculation of earnings) for “Schedule 3 to the Social Security (Contributions) Regulations 1979” substitute “Schedule 6 to the Social Security (Contributions) Regulations 2001”.
- (9) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 15(**28**)—
 - (i) for sub-paragraph (1) substitute—
 - “(1) Subject to sub-paragraph (3) and paragraph 39, any relevant payment made or due to be made at regular intervals.”;

(19) Sub-paragraph (4) was added by regulation 8(3)(a) of [S.R. 1998 No. 324](#)

(20) Sub-paragraph (1A) was inserted by regulation 8(3)(b) of [S.R. 1998 No. 324](#)

(21) Sub-paragraph (10) was added by regulation 8(4)(a) of [S.R. 1998 No. 324](#)

(22) Sub-paragraph (3AA) was inserted by regulation 2(1)(b) of [S.R. 1999 No. 315](#)

(23) Sub-paragraph (10) was added by regulation 8(4)(b) of [S.R. 1998 No. 324](#) and amended by reg 6(b) of [S.R. 2001 No. 78](#)

(24) Schedule 3 was substituted by regulation 2 of [S.R. 1995 No. 301](#)

(25) Paragraph 1(3)(b) was amended by regulation 2(3)(a)(ii) of [S.R. 1995 No. 434](#)

(26) [2002 c. 21](#)

(27) Paragraph 15A was inserted by regulation 5(11)(c) of [S.R. 1996 No. 405](#)

(28) Paragraph 15 was substituted by regulation 20(a) of [S.R. 1990 No. 131](#); sub-paragraph (1) was substituted by regulation 4(22)(b)(i) of [S.R. 1993 No. 373](#) and amended by regulation 7(a) of [S.R. 1996 No. 93](#) and regulation 3(1)(a) of [S.R. 2002 No. 299](#); sub-paragraph (2) was amended by paragraph 17(b)(i) of Part 1 of the Schedule to [S.R. 2002 No. 132](#) and regulation 3(1)(b) of [S.R. 2002 No. 299](#); sub-paragraph (4) was amended by regulation 3(1)(c) of [S.R. 2002 No. 299](#)

- (ii) in sub-paragraph (3) for “Sub-paragraphs (1) and (2)” substitute “Sub-paragraph (1)”, and
- (iii) omit sub-paragraphs (2), (4) and (5);
- (b) omit paragraph 15A**(29)**;
- (c) in paragraph 26**(30)** for sub-paragraph (b) substitute—
 - “(b) a juvenile justice centre, within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998**(31)**, under Article 43(2) of that Order to a person who is caring for a child and with whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order.”;
- (d) in paragraph 27**(32)** for sub-paragraph (b) substitute—
 - “(b) made to the claimant or his partner for a person who is not normally a member of the claimant’s household but is temporarily in his care by a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”;
- (e) in paragraph 30A**(33)** omit “but not a payment to which paragraph 15A applies”; and
- (f) in paragraph 36**(34)** for “paragraphs 15(1) and 16” substitute “paragraph 16”.
- (10) In Schedule 10 (capital to be disregarded)—
 - (a) in paragraph 12**(35)** after “claimant” insert “or the claimant’s partner”;
 - (b) after paragraph 12 insert—
 - “**12A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.
 - (2) But sub-paragraph (1)—
 - (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
 - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.
 - (3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.
 - (4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”; and

(29) Paragraph 15A was inserted by regulation 4(5)(c) of S.R. 1993 No. 165 and amended by paragraph 17(c) of Part I of the Schedule to S.R. 2002 No. 132 and paragraph 12(a) of Schedule 1 to S.R. 2005 No. 458

(30) Paragraph 26 was substituted by regulation 2(8)(b) of S.R. 1998 No. 2

(31) S.I. 1998/1504 (N.I. 9)

(32) Paragraph 27 was substituted by regulation 4(1) and (2)(d) of S.R. 1998 No. 81

(33) Paragraph 30A was inserted by regulation 4(22)(e) of S.R. 1993 No. 373 and sub-paragraph (1) was amended by paragraph 12(b) of Schedule 1 to S.R. 2005 No. 458

(34) Paragraph 36 was amended by regulation 20(d) of S.R. 1990 No. 131, regulation 4(4) of S.R. 1990 No. 305, regulation 7(a) of S.R. 1996 No. 93 and regulation 2(8) of S.R. 2000 No. 242

(35) Paragraph 12 was substituted by regulation 9(c) of S.R. 1990 No. 346

(c) for paragraph 43(36) substitute—

“43.—(1) Any sum of capital to which sub-paragraph (2) applies and—

(a) which is administered on behalf of a person by the High Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980(37) or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981(38) or Article 21 of the County Courts (Northern Ireland) Order 1980(39);

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the Housing Benefit (General) Regulations

6.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987 shall be amended in accordance with paragraphs (2) to (12).

(2) After regulation 36(8)(40) (notional income) add—

“(9) For the purposes of paragraph (6), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme; and

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004(41).

(10) In paragraph (9) ”registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.”.

(3) In regulation 40(4)(42) (income treated as capital) for “or 24 to 27” substitute “, 24 to 27 or 45”.

(4) In regulation 56(43) (relationship with amounts to be disregarded under Schedule 4) omit from “and any other income” to the end.

(5) In regulation 68(10)(44) (date on which change of circumstances is to take effect) after “the change of circumstances” insert “referred to in paragraph (9)(b)”.

(6) In regulation 69(5)(a)(45) (calculation of weekly amounts) for “regulation 65(2)” substitute “regulation 65(2), (3)”.

(36) Paragraph 43 was added by regulation 2(11)(b) of S.R. 1994 No. 327 and amended by regulation 7(5) and (6)(d) of S.R. 1997 No. 412

(37) S.R. 1980 No. 346; Order 109 was added by S.R. 1986 No. 184

(38) S.R. 1981 No. 225; Order 44 was amended by S.R. 1986 No. 218 and S.R. 1988 No.100

(39) S.I. 1980/397 (N.I. 3)

(40) See regulation 8 of S.R. 2003 No. 197; paragraph (8) was added by regulation 2(2) of S.R. 2004 No. 46

(41) 2004 c. 12

(42) Paragraph (4) was amended by regulation 11(b) of S.R. 1988 No. 424

(43) Regulation 56 was amended by regulation 7 of S.R. 1990 No. 136 and regulation 7(b) of S.R.1996 No. 93

(44) Regulation 68(10) was added by regulation 13(3) of S.R. 2003 No. 197 and amended by regulation 2(9)(a)(ii) of S.R. 2003 No. 418

(45) Regulation 69(5)(a) was substituted by regulation 2(11)(d) of S.R. 2005 No. 444

- (7) In paragraph 2(3)(**46**) of Schedule 1B (excluded tenancies) after head (b) insert—
- “(bb) there has been a rent increase under a term of the tenancy and the term under which that increase was made was either included in the tenancy at the time when the application for that decision was made (or was a term substantially the same as such a term) and that decision was not made under paragraph 1(2), 2(2) or 3(3) of Schedule 1A;”.
- (8) In paragraphs 10(4)(**47**) and 12(8) of Schedule 2 (applicable amounts) for “52 weeks” substitute “104 weeks”.
- (9) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 26(**48**) for sub-paragraph (b) substitute—
- “(b) a juvenile justice centre, within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998, under Article 43(2) of that Order to a person who is caring for a child and with whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order.”; and
- (b) in paragraph 27(**49**) for sub-paragraph (b) substitute—
- “(b) made to the claimant or his partner for a person who is not normally a member of the claimant’s household but is temporarily in his care by a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.
- (10) In Schedule 5 (capital to be disregarded)—
- (a) in paragraph 13(**50**) after “claimant” insert “or the claimant’s partner”;
- (b) after paragraph 13 insert—
- “**13A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.
- (2) But sub-paragraph (1)—
- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.
- (3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.
- (4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”; and

(46) Schedule 1B was inserted by regulation 15 of S.R. 1996 No. 111 and paragraph 2(3) was amended by regulation 9 of S.R. 1996 No. 181, regulation 7 of S.R. 1998 No. 81, regulation 4(s)(i) of S.R. 2001 No. 215, regulation 3(c) of S.R. 2001 No. 238 and regulation 18(b) of S.R. 2004 No. 144

(47) Paragraphs 10(4) and 12(8) were added by regulation 9 of S.R. 1998 No. 324

(48) Paragraph 26 was substituted by regulation 3(6)(b) of S.R. 1998 No. 2

(49) Paragraph 27 was substituted by regulation 4(1) and (2)(c) of S.R. 1998 No. 81

(50) Paragraph 13 was substituted by regulation 12(c) of S.R. 1990 No. 345

(c) for paragraph 45(51) substitute—

“45.—(1) Any sum of capital to which sub-paragraph (2) applies and—

(a) which is administered on behalf of a person by the High Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980 or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981 or Article 21 of the County Courts (Northern Ireland) Order 1980;

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.”

(11) In paragraph 17(2) of Schedule 5ZA(52) for head (a) substitute—

“(a) by the High Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980 or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981 or Article 21 of the County Courts (Northern Ireland) Order 1980 or on behalf of a person where the payment can only be disposed of by order or direction of any such court; or”.

(12) The amendments made by paragraphs (2), (5) and (11) 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(53) applies.

Amendment of the Social Security (Attendance Allowance) Regulations

7. In regulation 2(1) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(54) (conditions as to residence and presence in Northern Ireland) omit from the word “and” after sub-paragraph (a)(iii) to the end.

Amendment of the Social Security (Disability Living Allowance) Regulations

8. In regulation 2(1) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(55) omit from the word “and” after sub-paragraph (a)(iii) to the end.

Amendment of the Social Security (Incapacity Benefit) Regulations

9.—(1) The Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(56) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4A(57) (calculating periods of incapacity for work for welfare to work beneficiaries) for “52 weeks” substitute “104 weeks”.

(51) Paragraph 45 was added by regulation 13(b) of S.R. 1994 No. 335 and amended by regulation 7(5) and (6)(c) of S.R. 1997 No. 412

(52) Schedule 5ZA was inserted by regulation 12 of and Schedule 2 to S.R. 2003 No. 197

(53) S.R. 2003 No. 197

(54) S.R. 1992 No. 20; relevant amending Regulations are S.R. 1996 No. 11, S.R. 1997 No. 69 and S.R. 2000 No. 71

(55) S.R. 1992 No. 32; relevant amending Regulations are S.R. 1993 No. 340, S.R. 1996 No. 11, S.R. 1997 No. 69 and S.R. 2000 No. 71

(56) S.R. 1994 No. 461; relevant amending Regulations are S.R. 1998 No. 324, S.R. 2000 No. 404 and S.R. 2005 No. 415

(57) Regulation 4A was inserted by regulation 2 of S.R. 1998 No. 324

(3) In regulation 7(**58**) (limit of earnings from councillor’s allowance) for “£81·00” substitute “£86·00”.

(4) In regulation 15(**59**) (conditions relating to residence or presence) omit paragraphs (2) and (3).

Amendment of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations

10. In regulation 9 of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations (Northern Ireland) 1994(**60**) (increase of incapacity benefit for adult dependants and persons having the care of children or qualifying young persons) after paragraph (2A) insert—

“(2B) For the purposes of paragraph (1)(c) a beneficiary shall be treated as if he were entitled to child benefit in respect of a child or qualifying young person for any period throughout which—

- (a) child benefit has been awarded to a parent of that child or qualifying young person with whom that child or qualifying young person is living and with whom the beneficiary is residing and either—
 - (i) the child or qualifying young person is being wholly or mainly maintained by the beneficiary, or
 - (ii) the beneficiary is also a parent of the child or qualifying young person; or
- (b) (i) the beneficiary,
 - (ii) his spouse or civil partner with whom he is residing, or
 - (iii) a parent (other than the beneficiary) to whom sub-paragraph (a) would refer if that parent were entitled to child benefit,

would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which the birth occurred.

(2C) Where for any period a person who is in Northern Ireland could have been entitled to an increase of incapacity benefit pursuant to paragraph (1)(c) but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom—

- (a) he;
- (b) his spouse or civil partner who is residing with him; or
- (c) a parent (other than the beneficiary) to whom paragraph (2B)(a) would refer if that parent were entitled to child benefit,

is entitled in respect of the child or qualifying young person in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the increase be treated as if he were entitled to child benefit for the period in question.

(2D) For the purposes of paragraphs (2B) and (2C)—

- (a) “week” means a period of 7 days beginning with a Monday; and
- (b) a child or qualifying young person shall not be regarded as living with a person unless he can be so regarded for the purposes of section 139 of the Contributions

(58) Regulation 7 was amended by regulation 3 of S.R. 2005 No. 415

(59) Regulation 15 was inserted by regulation 2(5) of S.R. 2000 No. 404

(60) S.R. 1994 No. 485; regulation 9 was amended by regulation 6 of S.R. 2000 No. 109, regulation 2(7)(c) of S.R. 2003 No. 213, regulation 21(3) of S.R. 2005 No. 536 and regulation 4(2) of S.R. 2006 No. 158

and Benefits Act(61) (meaning of “person responsible for child or qualifying young person”).”.

Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations

11.—(1) The Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(62) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 17B (calculating periods of incapacity for work for welfare to work beneficiaries in long-term incapacity benefit transitional cases) for “52 weeks” substitute “104 weeks”.

(3) In regulation 23(2) (increase of Category A retirement pension for incapacity) for “52 weeks” substitute “104 weeks”.

Amendment of the Social Security (Incapacity for Work) (General) Regulations

12.—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(63) shall be amended in accordance with paragraphs (2) to (4).

(2) For regulation 11 (person with an infectious or contagious disease) substitute—

“Person with an infectious or contagious disease

11.—(1) A person shall be treated as incapable of work on any day in respect of which he is—

(a) excluded or abstains from work pursuant to a request or notice in writing lawfully made under a statutory provision; or

(b) otherwise prevented from working pursuant to a statutory provision,

by reason of his being a carrier, or having been in contact with a case, of an infectious disease to which—

(i) section 15(1) of the Public Health Act (Northern Ireland) 1967(64) (power to require person in contact with infectious disease to discontinue employment and compensation therefor) applies,

(ii) regulations 8 and 9 of the Public Health (Aircraft) Regulations (Northern Ireland) 1971(65) (examination, etc., of persons on aircraft and powers in respect of persons leaving aircraft) apply, or

(iii) regulations 9 and 10 of the Public Health (Ships) Regulations (Northern Ireland) 1971(66) (examination, etc., of persons on ships and powers in respect of certain persons on ships) apply.”.

(3) In regulation 13A(67) (welfare to work beneficiary)—

(a) at the end of paragraph (1)(b) insert “and”;

(b) in paragraph (1)(c) for “one week” substitute “one month”;

(61) Section 139 was amended by paragraph 185 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), section 63 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) and paragraph 35 of Schedule 1 to the Child Benefit Act 2005 (c. 6)

(62) S.R. 1995 No. 35; regulations 17B and 23(2) were inserted by regulation 3(2) and (3) respectively of S.R. 1998 No. 324

(63) S.R. 1995 No. 41; relevant amending Regulations are S.R. 1998 No. 324, S.R. 2000 No. 4 and S.R. 2006 No. 150

(64) 1967 c. 36; section 15(1) was amended by paragraph 75(c) of Schedule 16 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) and Article 32(1) and (2)(c) of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

(65) S.R. & O. (N.I.) 1971 No 182

(66) S.R. & O. (N.I.) 1971 No 183

(67) Regulation 13A was inserted by regulation 4(2) of S.R. 1998 No. 324 and amended by regulation 2(6) of S.R. 2000 No. 4 and regulation 2(2) of S.R. 2006 No. 150

- (c) omit paragraph (1)(d) and the word “and” immediately preceding it;
- (d) for paragraph (3) substitute—

“(3) A person is not a welfare to work beneficiary under paragraph (1) if his immediate past period of incapacity for work was ended by a determination, other than a determination in the circumstances set out in paragraph (1) or (3A), that he was, or was treated as, capable of work.”;

- (e) after paragraph (3) insert—

“(3A) The circumstances are that the person had successfully appealed against a determination made in respect of the personal capability assessment or the own occupation test in relation to his immediate past period of incapacity for work.”; and

- (f) in paragraph (4)—

- (i) in the definition of “linking term” for “52 weeks” substitute “104 weeks”; and
- (ii) in the definition of “immediate past period of incapacity for work”(68) after “means” insert “the most recent of”.

- (4) In regulation 17(3) and (4)(69) (exempt work) for “£81·00” substitute “£86·00”.

(5) In determining whether a person is a welfare to work beneficiary in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995, as amended by paragraph (3), it shall be immaterial whether that person’s immediate past period of incapacity for work ended before or after the coming into operation of that paragraph.

Amendment of the Jobseeker’s Allowance Regulations

13.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996 shall be amended in accordance with paragraphs (2) to (15).

(2) In regulation 1(2) (interpretation) in the definition of “benefit week” after “regulation 23” each time that it occurs insert “or regulation 23A”.

- (3) In regulation 14 (circumstances in which a person is to be treated as available)—

- (a) in paragraph (1)(q)(70) after “justice of the peace,” insert “a lay magistrate,”; and
- (b) for paragraph (7)(71) substitute—

“(7) In this regulation, “tribunal” means—

- (a) any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992; or
- (b) any tribunal established under an enactment.”.

- (4) In—

- (a) regulation 18(3)(f)(v) (steps to be taken by persons actively seeking employment);
- (b) regulation 53(d)(iv) (persons treated as not engaged in remunerative work);
- (c) paragraphs 9(1)(d) and 19(a)(i)(72) of Schedule 5 (sums to be disregarded in the calculation of earnings); and
- (d) paragraph 5(a)(i) of Schedule 5A(73) (sums to be disregarded in the calculation of earnings of members of joint-claim couples),

(68) The definition of “immediate past period of incapacity for work” was substituted by regulation 2(2)(b) of S.R. 2006 No. 150

(69) Regulation 17 was substituted by regulation 2(4) of S.R. 2006 No. 150

(70) Sub-paragraph (q) was added by regulation 3(3)(b) of S.R. 2006 No. 234

(71) Paragraph (7) was added by regulation 3(3)(d) of S.R. 2006 No. 234

(72) Paragraph 19 was substituted by regulation 2(20) of S.R. 1996 No. 503

(73) Schedule 5A was inserted by paragraph 58 of Schedule 2 to S.R. 2000 No. 350

for “Schedule 3 to the Social Security (Contributions) Regulations 1979” substitute “Schedule 6 to the Social Security (Contributions) Regulations 2001”.

(5) In regulation 19 (circumstances in which a person is to be treated as actively seeking employment)—

(a) in paragraph (1)(u)(74) after “justice of the peace,” insert “a lay magistrate,”; and

(b) in paragraph (3) for the definition of “tribunal”(75) substitute—

““tribunal” means—

(a) any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992; or

(b) any tribunal established under an enactment.”.

(6) In regulation 98(1)(i)(76) (earnings of employed earners) for “regulation 18(22) to (25) of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (calculation of earnings)” substitute “Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001”.

(7) In regulation 110(4) (income treated as capital) for “or 17” substitute “, 17 or 41”.

(8) In regulation 134 (relationship with amounts to be disregarded under Schedule 6) omit from “and any other income” to the end.

(9) In regulation 159(b) (modifications of Article 4 of the Order) in the definition of “special Class 2 contributions” for “regulation 96(c) of the Social Security (Contributions) Regulations (Northern Ireland) 1979” substitute “regulation 125(c) of the Social Security (Contributions) Regulations 2001”.

(10) In regulation 166 (modification of contribution conditions for volunteer development workers) for “Case E of Part VIII of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (volunteer development workers)” substitute “Case G of Part 9 of the Social Security (Contributions) Regulations 2001”.

(11) In Schedule A1(77) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order), for paragraph 15(78) (members required to attend a court or tribunal) substitute—

“Members required to attend a court or tribunal

15.—(1) A member who is required to attend a court or tribunal as a justice of the peace, a lay magistrate, a party to any proceedings, a witness or a juror.

(2) In this paragraph, “tribunal” means—

(a) any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992; or

(b) any tribunal established under an enactment.”.

(12) In—

(a) paragraphs 12(3)(79), 20F(3)(80), 20H(2) of Schedule 1 (applicable amounts); and

(b) paragraphs 13(4A)(b)(81) and (12)(82) of Schedule 2 (housing costs),

for “52 weeks” substitute “104 weeks”.

(74) Sub-paragraph (u) was added by regulation 3(4)(b) of S.R. 2006 No. 234

(75) The definition of “tribunal” was inserted by regulation 3(4)(d) of S.R. 2006 No. 234

(76) Sub-paragraph (i) was added by regulation 2(5)(a) of S.R. 1999 No. 249

(77) Schedule A1 was inserted by regulation 2(4) of, and Schedule 1 to, S.R. 2000 No. 350

(78) Paragraph 15 was substituted by regulation 3(6) of S.R. 2006 No. 234

(79) Sub-paragraph (3) was added by regulation 11(3) of S.R. 1998 No. 324

(80) Paragraphs 20F and 20H were inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350

(81) Sub-paragraph (4A) was inserted by regulation 2(2)(b) of S.R. 1999 No. 315

(82) Sub-paragraph (12) was added by regulation 11(4) of S.R. 1998 No. 324 and amended by regulation 12(b)(ii) of S.R. 2001 No. 78

- (13) In Schedule 2 (housing costs)—
- (a) after paragraph 1(3)(c) add—
- “; or
- (d) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002.”; and
- (b) for paragraph 3(7)(c) (circumstances in which a person is to be treated as occupying a dwelling as his home) for head (ii) substitute—
- “(ii) the move was delayed pending the outcome of an application under Part VIII of the Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—
- (aa) a member of the claimant’s family is aged five or under,
- (bb) the claimant’s applicable amount includes a premium under paragraph 10, 11, 12, 13, 15 or 16 of Schedule 1 (applicable amounts), or
- (cc) a child tax credit is paid for a member of the claimant’s family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002, or”.
- (14) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 15(**83**)—
- (i) for sub-paragraph (1) substitute—
- “(1) Subject to sub-paragraph (3) and paragraph 41, any relevant payment made or due to be made at regular intervals.”,
- (ii) in sub-paragraph (3) for “Sub-paragraphs (1) and (2)” substitute “Sub-paragraph (1)”, and
- (iii) omit sub-paragraphs (2), (4) and (5);
- (b) omit paragraph 16(**84**);
- (c) for paragraph 27(**85**) for sub-paragraph (b) substitute—
- “(b) a juvenile justice centre, within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998, under Article 43(2) of that Order to a person who is caring for a child and with whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order.”;
- (d) in paragraph 28(**86**) for sub-paragraph (b) substitute—
- “(b) made to the claimant or his partner for a person who is not normally a member of the claimant’s household but is temporarily in his care by a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”;
- (e) in paragraph 32(1)(**87**) omit “but not a payment to which paragraph 16 applies”; and
- (f) in paragraph 38(**88**) for “paragraphs 15(1) and 17” substitute “paragraph 17”.

(83) Paragraph 15(1) was amended by regulation 3(1)(a) of [S.R. 2002 No. 299](#); sub-paragraph (2) was amended by paragraph 23(b)(i) of Part II of the Schedule to [S.R. 2002 No. 132](#) and regulation 3(1)(b) of [S.R. 2002 No. 299](#); sub-paragraph (4) was amended by regulation 3(1)(c) of [S.R. 2002 No. 299](#)

(84) Paragraph 16 was amended by paragraph 23(c) of Part II of the Schedule to [S.R. 2002 No. 132](#) and paragraph 14(a) of Schedule 3 to [S.R. 2005 No. 458](#)

(85) Paragraph 27 was substituted by regulation 8(7)(b) of [S.R. 1998 No. 2](#)

(86) Paragraph 28 was substituted by regulation 4(1) and (2)(e) of [S.R. 1998 No. 81](#)

(87) Paragraph 32 was amended by paragraph 14(b) of Schedule 3 to [S.R. 2005 No. 458](#)

(88) Paragraph 38 was amended by regulation 5(12) of [S.R. 1997 No. 130](#) and regulation 3(9) of [S.R. 2000 No. 242](#)

(15) In Schedule 7 (capital to be disregarded)—

- (a) in paragraph 17 after “claimant” insert “or the claimant’s partner”;
- (b) after paragraph 17 insert—

“**17A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”; and

(c) for paragraph 41(**89**) substitute—

“**41.** Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980 or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981 or Article 21 of the County Courts (Northern Ireland) Order 1980;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the State Pension Credit Regulations

14.—(1) The State Pension Credit Regulations (Northern Ireland) 2003 shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 5 (persons treated as being or not being members of the same household)—

- (a) in paragraph (1) omit sub-paragraph (e); and
- (b) after paragraph (1) insert—

“(1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Northern Ireland in accordance with regulation 4.”.

(3) In regulation 10 (assessed income period) omit paragraph (8).

(4) In regulation 18 (notional income)—

(a) for paragraph (1) substitute—

“(1) A claimant who has attained the qualifying age shall be treated as possessing the amount of any retirement pension income—

(a) to which section 16(1)(a) to (e) of the Act applies;

(b) for which no claim has been made; and

(c) to which the claimant might expect to be entitled if a claim for it were made,

but only from the date on which that income could be expected to be acquired if a claim for it were made.

(1A) Paragraph (1) is subject to paragraphs (1B) and (1C).

(1B) Where a claimant—

(a) has deferred his retirement pension income to which section 16(1)(a) to (c) of the Act applies for at least 12 months; and

(b) would have been entitled to make an election under Schedule 5 or 5A(90) to the Contributions and Benefits Act or under Schedule 2 of the Graduated Retirement Benefit Regulations,

he shall be treated for the purposes of paragraph (1) as possessing the amount of retirement pension income to which he might expect to be entitled if he were to elect to receive a lump sum.

(1C) Where a claimant receives an allowance under—

(a) section 68 of the Contributions and Benefits Act(91) (severe disablement allowance); or

(b) section 70 of that Act(92) (carer’s allowance),

the amount of that allowance is to be deducted from the amount of retirement pension income which he is treated as possessing for the purposes of paragraph (1) (or, where applicable, paragraph (1) read with paragraph (1B)).

(1D) A claimant who has attained the qualifying age shall be treated as possessing income from an occupational pension scheme which he elected to defer, but only from the date on which it could be expected to be acquired if a claim for it were made.”; and

(b) after paragraph (8)(93) add—

“(9) For the purposes of paragraph (6), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme; and

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.

(90) Schedule 5A was inserted by paragraph 14 of Schedule 9 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(91) Section 68 was repealed by section 62 of, and Part IV of Schedule 10 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 and saved by Article 4 of S.R. 2000 No. 332 (C. 14)

(92) Section 70 was amended by regulation 2(3) of S.R. 1994 No. 370 and regulation 2(2) and 3 of S.R. 2002 No. 321

(93) Paragraph (8) was added by regulation 12(3)(b) of S.R. 2006 No. 104

- (10) In paragraph (9) "registered pension scheme" has the meaning given in section 150(2) of the Finance Act 2004."
- (5) In paragraph 14 of Schedule 2 (housing costs)—
- (a) in sub-paragraph (2)(a)(94) (persons residing with the claimant) for "(1)(c)" substitute "(1)(b)"; and
- (b) after sub-paragraph (7)(d) insert—
- “(dd) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 63 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (non-dependent deductions);”.
- (6) In paragraph 16(2) of Schedule 5 (capital disregarded for the purpose of calculating income) for sub-paragraph (a) substitute—
- “(a) by the High Court or the County Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980 or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981 or Article 21 of the County Courts (Northern Ireland) Order 1980 on behalf of a person where the payment can only be disposed of by order or direction of any such court; or ”.

Revocations

15. The Regulations specified in column (1) of the Schedule are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 7th September 2006



John O'Neill
A senior officer of the Department for Social
Development

The Department of Finance and Personnel consents to regulation 6.
Sealed with the Official Seal of the Department of Finance and Personnel on 8th September 2006



Mary McIvor
A senior officer of the Department of Finance
and Personnel