
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 396

HOUSING; RATES; SOCIAL SECURITY

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

Made - - - - 7th September 2007

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 30C(3), 30E(1), 70(8), 122(1)(a) and (d), 131(1) and (2), 132(3) and (4)(a) to (c), 132A(3), 133(2)(d) and (h), 167D and 171(1) to (4) of, and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) and Articles 6(5) and (12), 14(1), (2) and (4)(a) to (c), 21(8), 22A(9) and 36(2) of, and paragraph 1(2)(a) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(2), and now vested in it(3), paragraphs 4(5) and 20(1) (b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(4) and sections 2(6), 15(3) and (6)(a) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002(5).

Regulations 9 and 10 are made with the consent of the Department of Finance and Personnel(6).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 9 and 10 should not be referred to it(7).

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- (1) 1992 c. 7; sections 30C, 30E and 167D were inserted by Articles 5(1) and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), section 70 was amended by regulation 2(3) of S.R. 1994 No. 370 and Articles 2(2)(a)(iii) and 3 of the Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 (S.R. 2002 No. 321), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21) and paragraph (2) was amended by paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (2) S.I. 1995/2705 (N.I. 15); Article 22A was inserted by paragraph 14 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
- (3) See Article 8(b) of S.R. 1999 No. 481
- (4) 2000 c. 4 (N.I.)
- (5) 2002 c. 14 (N.I.)
- (6) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481
- (7) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

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Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2007 and, subject to paragraphs (2) to (4), shall come into operation on 1st October 2007.

(2) Regulation 4(12)(a) and (13)(b), 7(14)(a) and (15)(b) and 9(12)(a) and (13)(b) shall come into operation on 7th April 2008.

(3) Regulations 4(12)(b) and 7(14)(b) 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 7th April 2008.

(4) Regulation 9(12)(b), in relation to a case where rent is payable at intervals of a week or any multiple thereof, shall come into operation on 7th April 2008, and in relation to any other case, on 1st April 2008.

(5) In this regulation—

“benefit week” has the same meaning as in—

(a) regulation 2(1)(8) of the Income Support (General) Regulations (Northern Ireland) 1987(9) so far as it relates to regulation 4(12)(b);

(b) regulation 1(2)(10) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(11) so far as it relates to regulation 7(14)(b).

(6) The Interpretation Act (Northern Ireland) 1954(12) shall apply to these Regulations as it applies to an Act of the Assembly.

Commencement Information

I1 Reg. 1 in operation at 1.10.2007, see [reg. 1\(1\)](#)

Amendment of the Social Security (Invalid Care Allowance) Regulations

2. In regulation 8(1) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(13) (circumstances in which a person is or is not to be treated as gainfully employed) for “an amount equal to the lower earnings limit in force by virtue of regulations under section 5 of that Act on the last day of that week” substitute “£95·00”.

Commencement Information

I2 Reg. 2 in operation at 1.10.2007, see [reg. 1\(1\)](#)

(8) The definition of “benefit week” was amended by regulation 2(a) of S.R. 1988 No. 318

(9) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 No. 365, S.R. 1992 No. 403, S.R. 1993 Nos. 120 and 373, S.R. 1994 Nos. 77 and 327, S.R. 1995 No. 86, S.R. 1996 No. 199, S.R. 1997 No. 130, S.R. 1998 No. 182, S.R. 1999 Nos. 342, 371 (C. 28), 390 and 472 (C. 36), S.R. 2000 Nos. 4 and 260, S.R. 2001 No. 151, S.R. 2002 No. 132, S.R. 2003 No. 191, S.R. 2004 Nos. 300 and 389, S.R. 2005 No. 536 and S.R. 2007 Nos. 153 and 306

(10) The definition of “benefit week” was amended by regulation 2(2) of S.R. 1996 No. 358, regulation 2(2)(a) of S.R. 1996 No. 503 and regulation 13(2) of S.R. 2006 No. 359

(11) S.R. 1996 No. 198; relevant amending Rules are S.R. 1996 Nos. 356 and 358, S.R. 1998 No. 182, S.R. 1999 Nos. 342 and 428 (C. 32), S.R. 2000 Nos. 109 and 260, S.R. 2001 No. 151, S.R. 2004 No. 300, S.R. 2005 No. 536, S.R. 2006 No. 359 and S.R. 2007 Nos. 153 and 306

(12) 1954 c. 33 (N.I.)

(13) S.R. 1976 No. 99; regulation 8(1) was amended by regulation 2(7)(a) of S.R. 1996 No. 521, regulation 2 of S.R. 2001 No. 117 and paragraph 1(b) of the Schedule to S.R. 2002 No. 323

Amendment of the Social Security (General Benefit) Regulations

3. In regulation 14 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(14) (earnings level for the purpose of unemployability supplement) for “£4,472·00” substitute “£4,602·00”.

Commencement Information

I3 Reg. 3 in operation at 1.10.2007, see [reg. 1\(1\)](#)

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”(15);
- (b) in the definition of “maternity leave”(16) 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(17)”; and
- (c) after the definition of “sports award”(18) insert—

““starting rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(19) (see section 989 of that Act);”.

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

- (a) in paragraph (5)(20) 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)(21) (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)(22) (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(23) (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)”

(14) [S.R. 1984 No. 92](#); regulation 14 was amended by regulation 3 of [S.R. 2006 No. 359](#)

(15) The definition of “lower rate” was inserted by regulation 4(2) of [S.R. 1992 No. 403](#)

(16) The definition of “maternity leave” was inserted by regulation 4(2)(c) of [S.R. 1993 No. 373](#)

(17) [S.I. 1996/1919 \(N.I. 16\)](#)

(18) The definition of “sports award” was inserted by regulation 2(2)(d) of [S.R. 1999 No. 342](#)

(19) [2007 c. 3](#)

(20) Paragraph (5) was amended by regulation 3 of [S.R. 1988 No. 431](#) and regulation 3 of [S.R. 1989 No. 365](#)

(21) 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](#)

(22) Paragraph (4B) was inserted by regulation 9(c) of [S.R. 1989 No. 365](#)

(23) 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)(24) 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)(25) (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)(26) 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)(27) 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)(28) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(10) For regulation 49(29) (calculation of capital in the United Kingdom) substitute—

(24) 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](#)

(25) 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](#)

(26) 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](#)

(27) 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](#)

(28) 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](#)

(29) 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(30) 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(31) 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)—

(30) 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

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

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- (a) in paragraph 11(1)(32) 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(33)”;
 - (b) in paragraph 19(34) 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(35) at the end add “or reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977(36) (rate relief in respect of dwellings)”.
- (13) In Schedule 10 (capital to be disregarded)—
- (a) in paragraph 36(37) 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(38) 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

- 14** Reg. 4(1)-(11)(12)(c)(13)(a) in operation at 1.10.2007, see [reg. 1\(1\)](#)
- 15** Reg. 4(12)(a) in operation at 7.4.2008, see [reg. 1\(2\)](#)
- 16** Reg. 4(12)(b) in operation at 7.4.2008 for specified purposes, see [reg. 1\(3\)](#)
- 17** Reg. 4(13)(b) in operation at 7.4.2008, see [reg. 1\(2\)](#)

Amendment of the Social Security (Incapacity Benefit) Regulations

5.—(1) The Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(39) are amended in accordance with paragraphs (2) and (3).

(2) Renumber regulation 3A(40) (days to be treated as days of incapacity for work) as paragraph (1) of that regulation and after that paragraph add—

“(2) Where—

- (a) any day was, as a result of official error, a day of incapacity for work in a period of incapacity for work for the purposes of the previous entitlement to incapacity benefit referred to in regulation 8D(2)(a) of the Social Security

(32) Paragraph 11 was substituted by regulation 5(3) of [S.R. 2004 No. 300](#)

(33) [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 \(N.I. 9\)](#))

(34) 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](#)

(35) Paragraph 46 was amended by regulation 4(7)(c) of [S.R. 1993 No. 120](#)

(36) [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 \(N.I. 18\)](#))

(37) Paragraph 36 was amended by regulation 4(8)(b) of [S.R. 1993 No. 120](#)

(38) Paragraph 56 was substituted by regulation 5(4) of [S.R. 2004 No. 300](#)

(39) [S.R. 1994 No. 461](#); relevant amending Regulations are [S.R. 2000 No. 404](#) and [S.R. 2006 No. 359](#)

(40) Regulation 3A was inserted by regulation 2(4) of [S.R. 2000 No. 404](#)

(Credits) Regulations (Northern Ireland) 1975⁽⁴¹⁾ (credits for the purposes of entitlement to incapacity benefit following official error); and

- (b) that official error derived from the failure to transpose correctly information relating to credits for incapacity for work or approved training in the tax years from 1993-94 to 2007-08 from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (National Insurance Recording System 2) or from related clerical procedures,

that day shall be treated as a day of incapacity for work for the purposes of the later claim referred to in paragraph (2)(d) of that regulation.

- (3) In this regulation—

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of two or more Commissioners constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998⁽⁴²⁾;

“credits for incapacity for work or approved training” means earnings credited pursuant to the Social Security (Credits) Regulations (Northern Ireland) 1975 for incapacity for work or approved training⁽⁴³⁾;

“official error” means an error made by—

- (a) an officer of the Department or the Department for Work and Pensions or an officer of Revenue and Customs acting as such which no person outside the Department or Her Majesty's Revenue and Customs caused or to which no person outside the Department or Her Majesty's Revenue and Customs materially contributed; or
- (b) a person employed by a service provider and to which no person who was not so employed materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of a Commissioner or the court;

“service provider” means a person providing services to the Department, the Department for Work and Pensions or to Her Majesty's Revenue and Customs.”.

- (3) In regulation 7⁽⁴⁴⁾ (limit of earnings from councillor's allowance) for “£86·00” substitute “£88·50”.

Commencement Information

18 Reg. 5 in operation at 1.10.2007, see [reg. 1\(1\)](#)

⁽⁴¹⁾ S.R. 1975 No. 113; regulation 8D was inserted by S.R. 2007 No. 395

⁽⁴²⁾ S.I. 1998/1506 (N.I. 10)

⁽⁴³⁾ See regulation 7 as amended by regulation 2(2) of S.R. 1978 No. 77, regulation 5 of S.R. 1978 No. 153, regulation 2 of S.R. 1988 No. 298 and regulation 2 of S.R. 1989 No. 368, regulation 8B as inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 3 of S.R. 2000 No. 404, regulation 2(2) of S.R. 2003 No. 151 and regulation 2(3) of S.R. 2007 No. 306 and regulation 9 as in operation before the amendments by S.R. 1996 No. 430

⁽⁴⁴⁾ Regulation 7 was amended by regulation 9(3) of S.R. 2006 No. 359

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

6. In regulation 17(3) and (4) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995⁽⁴⁵⁾ (exempt work) for “£86·00” substitute “£88·50”.

Commencement Information

19 Reg. 6 in operation at 1.10.2007, see [reg. 1\(1\)](#)

Amendment of the Jobseeker’s Allowance Regulations

7.—(1) The Jobseeker’s Allowance Regulations are amended in accordance with paragraphs (2) to (15).

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

- (a) omit the definition of “lower rate”;
- (b) in the definition of “maternity leave” for “Articles 14 to 32 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976” substitute “Part IX of the Employment Rights (Northern Ireland) Order 1996⁽⁴⁶⁾”; and
- (c) after the definition of “sports award”⁽⁴⁷⁾ insert—

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

(3) In regulation 5(3) (exceptions to requirement to be available immediately: carers, voluntary workers, persons providing a service and persons under an obligation to provide notice) for “section 1 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 118 of the Employment Rights (Northern Ireland) Order 1996”.

(4) In regulation 52 (persons treated as engaged in remunerative work)—

- (a) in paragraph (3) for “A person” substitute “Subject to paragraph (3A), a person”; and
- (b) after paragraph (3) insert—

“(3A) Paragraph (3) shall not apply to earnings disregarded under paragraph 1 of Schedule 5 to these regulations.”.

(5) In regulation 71 (voluntary redundancy)—

- (a) in paragraph (1)(c)⁽⁴⁸⁾ for “section 16(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 183 of the Employment Rights (Northern Ireland) Order 1996”; and
- (b) in paragraph (2) for “section 11(2) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965” substitute “Article 174(1) of the Employment Rights (Northern Ireland) Order 1996”.

(6) In regulation 94 (calculation of earnings derived from employed earner’s employment and income other than earnings)—

- (a) in paragraph (6)(b) for “Article 49 of the Industrial Relations (Northern Ireland) Order 1976” substitute “Article 216 of the Employment Rights (Northern Ireland) Order 1996”; and

⁽⁴⁵⁾ [S.R. 1995 No. 41](#); regulation 17 was substituted by regulation 2(4) of [S.R. 2006 No. 150](#) and amended by regulation 12(4) of [S.R. 2006 No. 359](#)

⁽⁴⁶⁾ [S.I. 1996/1919 \(N.I. 16\)](#)

⁽⁴⁷⁾ The definition of “sports award” was inserted by regulation 2(2)(e) of [S.R. 1999 No. 342](#)

⁽⁴⁸⁾ Sub paragraph (c) was added by regulation 4(b) of [S.R. 1996 No. 356](#)

- (b) in paragraph (8)(c)(ii) 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 98 (earnings of employed earners)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (f)(**49**) for “Article 31, 32(2)(a) or (5), 39 or 41(1) to (3) of the Industrial Relations (Northern Ireland) Order 1976 (order for reinstatement or re-engagement, compensation for unfair dismissal and interim relief pending determination of complaint)” substitute “Articles 146(4), 147, 151(3)(a), 163, 166 and 167 of the Employment Rights (Northern Ireland) Order 1996 (the remedies: orders and compensation, the orders, enforcement of order and compensation, interim relief)”;
 - (ii) in sub-paragraph (ff) for “Article 3, 9 or 23 of the Industrial Relations (No.2) (Northern Ireland) Order 1976 (right to guarantee payment, right to remuneration on suspension on medical grounds and payments to employees out of maternity pay fund)” substitute “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 (g) for “Article 33, 34, 39(1) to (10), 39A, 40, 40A, 41, 51 or 53 of the Industrial Relations (Northern Ireland) Order 1976 (compensation for unfair dismissal or redundancy on grounds of involvement in trade union activities)” substitute “Article 154(1), 156(3), 163 to 167, 217 or 220 of the Employment Rights (Northern Ireland) Order 1996 (compensation for unfair dismissal, interim relief, complaint and protective award, complaint by employee to industrial tribunal)”;
 - (b) in paragraph 2(f) 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”.
- (8) In regulation 102(1)(**50**) (deduction of tax and contributions for self-employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.
- (9) In regulation 102D(**51**) (deduction in respect of tax for participants in the self-employment route) in paragraphs (1)(c) and (2) for “lower rate”, in each place where it occurs, substitute “starting rate”.
- (10) In regulation 105 (notional income)—
 - (a) at the end of paragraph (13A)(b)(ii)(**52**) add—
 - “; or
 - (c) 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.”;
 - (b) in paragraph (15)(a)(**53**) for “lower rate”, in each place where it occurs, substitute “starting rate”; and
 - (c) in paragraph (17) after the definition of “resources” insert—

(49) Sub-paragraphs (f) and (ff) were substituted by regulation 22(2) of S.R. 1996 No. 358

(50) Regulation 102(1) was amended by regulation 4(3) of S.R. 2007 No. 306

(51) Regulation 102D was inserted by regulation 4(4) of S.R. 1998 No. 182 and amended by regulation 14(4)(c) of S.R. 2001 No. 151 and regulation 4(3) of S.R. 2007 No. 306

(52) Paragraph 13A was inserted by regulation 8(b) of S.R. 2000 No. 109 and amended by regulation 6(b) of S.R. 2001 No. 151

(53) Paragraph (15)(a) was amended by regulation 4(3) of S.R. 2007 No. 306

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““work placement” means practical work experience which is not undertaken in expectation of payment.”.

(11) For regulation 111(54) (calculation of capital in the United Kingdom) substitute—

“Calculation of capital in the United Kingdom

111. 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 the sale, 10 per cent.; and
- (b) the amount of any encumbrance secured on it.”.

(12) In regulation 163(4)(c) (calculation of earnings) in added paragraph (4) for “lower rate” substitute “starting rate”.

(13) In Schedule 5 (sums to be disregarded in the calculation of earnings)—

(a) for paragraphs 1(55) and 2(56) 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 a jobseeker’s allowance;
- (b) any earnings, other than a payment of the nature described in regulation 98(1)(d) or (h) (in so far as it applies to regulation 98(1)(d)), 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 98(1)(d) or (h) (in so far as it applies to regulation 98(1)(d)); and
- (b) any award, sum or payment of the nature described in—
 - (i) regulation 98(1)(f), (g) or (h) (in so far as it relates to regulation 98(f) or (g)), 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.

1A. If the claimant’s partner has been engaged in remunerative work as an employed earner or, had the employment been in Northern Ireland, would have been so engaged, any earnings paid or due to be paid on termination of that employment by way of retirement but only if—

- (a) on retirement the partner is entitled to a retirement pension under the Benefits Act, or

(54) Regulation 111 was amended by Article 9(8)(d) of S.R. 1999 No. 428 (C. 32)

(55) Paragraph 1 was amended by regulation 18(a) and (b) of S.R. 1996 No. 356 and regulation 31(2) of S.R. 1996 No. 358

(56) Paragraph 2 was amended by regulation 18(c) of S.R. 1996 No. 356 and regulation 31(3) of S.R. 1996 No. 358

- (b) the only reason the partner is not entitled to a retirement pension under the Benefits Act is because the contribution conditions are not satisfied.

2.—(1) In the case of a claimant to whom this paragraph applies, any earnings (other than items to which paragraph 1(2) applies) which relate to employment which ceased before the first day of entitlement to a jobseeker’s allowance 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 has been suspended from his employment.”; and

- (b) in paragraph 3(b) for the words “33(1)(b) of the Industrial Relations (Northern Ireland) Order 1976” to the end substitute “152(1)(b) of the Employment Rights (Northern Ireland) Order 1996 for so long as the award remains unpaid and the employer is insolvent within the meaning of Article 228 of that Order.”.

(14) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 12(1)(57) 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”;

- (b) in paragraph 20 for sub-paragraphs (a) and (b)(58) 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 45 at the end add “or reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief in respect of dwellings)”.

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

- (a) in paragraph 35 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 50(1)(59) 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

- I10** Reg. 7(1)-(13)(14)(c)(15)(a) in operation at 1.10.2007, see [reg. 1\(1\)](#)
- I11** Reg. 7(14)(a) in operation at 7.4.2008, see [reg. 1\(2\)](#)
- I12** Reg. 7(14)(b) in operation at 7.4.2008 for specified purposes, see [reg. 1\(3\)](#)
- I13** Reg. 7(15)(b) in operation at 7.4.2008, see [reg. 1\(2\)](#)

(57) Paragraph 12 was substituted by regulation 6(4) of [S.R. 2004 No. 300](#)

(58) The amount in sub-paragraph (b) was substituted by Article 22(10) of [S.R. 2007 No. 153](#)

(59) Paragraph 50 was substituted by regulation 6(5) of [S.R. 2004 No. 300](#)

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Amendment of the State Pension Credit Regulations

8.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(**60**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) in the definition of “pension fund holder” after the words “with respect to” insert “an occupational pension scheme,”.

(3) In regulation 18 (notional income)—

- (a) in paragraph (1A) for “and (1C)” substitute “, (1CA) and (1CB)”;
- (b) for paragraph (1C)(**61**) substitute—

“(1C) Paragraphs (1CA) and (1CB) apply for the purposes of paragraph (1) (or, where applicable, paragraph (1) read with paragraph (1B)).

(1CA) Where a benefit or allowance in payment in respect of the claimant would be adjusted under the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**62**) if the retirement pension income had been claimed, he shall be treated as possessing that income minus the benefit or allowance in payment.

(1CB) Where a benefit or allowance in payment in respect of the claimant would require an adjustment to be made under the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 to the amount of retirement pension income payable had it been claimed, he shall be treated as possessing that retirement pension income minus the adjustment which would be made to it.”.

(4) For regulation 19 (calculation of capital in the United Kingdom) substitute—

“Calculation of capital in the United Kingdom

19. 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.”.

(5) In Schedule 2, in paragraph 8(8) (general provisions applying to housing costs) for the formula substitute—

“~~the formula~~”

Commencement Information

I14 Reg. 8 in operation at 1.10.2007, see [reg. 1\(1\)](#)

Amendment of the Housing Benefit Regulations

9.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**63**) are amended in accordance with paragraphs (2) to (13).

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

- (a) omit the definition of “lower rate”; and
- (b) after the definition of “sports award” insert—

(60) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2006 No. 359

(61) Paragraph (1C) was inserted by regulation 14(4)(a) of S.R. 2006 No. 359

(62) S.R. 1979 No. 242

(63) S.R. 2006 No. 405; relevant amending Rule is S.R. 2007 No. 153

““starting rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(64) (see section 989 of that Act);”.

(3) In regulation 7(8) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

- (a) for “Where a person” substitute “Where”;
- (b) in sub-paragraph (a), at the beginning, insert “a person”;
- (c) for sub-paragraph (b) substitute—

“(b) either—

- (i) that person had claimed housing benefit before moving in and either no decision has yet been made on that claim or it has been refused but a further claim has been made or treated as made within 4 weeks of the date on which the claimant moved into the new dwelling occupied as the home, or
- (ii) that person notified the move to the new dwelling as a change of circumstances under regulation 84 before the move, or the move to the new dwelling was otherwise notified before the move under that regulation; and”;

(d) for “he shall be treated” substitute “the person shall be treated”.

(4) In regulation 32(1) (earnings of employed earners) 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);”.

(5) In regulation 33(6)(a) (calculation of net earnings of employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(6) In regulation 36(1) (deduction of tax and contributions of self-employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(7) In regulation 39 (notional income)—

- (a) omit “or” at the end of paragraph 10(a);
- (b) at the end of paragraph (10)(b)(ii) add—

“; or

- (c) 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.

(10A) In paragraph (10)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.”; and

- (c) in paragraph (12)(a) for “lower rate”, in each place where it occurs, substitute “starting rate”.

(8) For regulation 44 (calculation of capital in the United Kingdom) substitute—

“Calculation of capital in the United Kingdom

44. 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 the sale, 10 per cent.; and
 - (b) the amount of any encumbrance secured on it.”
- (9) In regulation 77 (date on which change of circumstances is to take effect)—
- (a) in paragraph (3) for “and (11)” substitute “to (12)”; and
 - (b) after paragraph (11) add—
 - “(12) Where the change of circumstances is that the person moves to a new dwelling and immediately before the move that person is treated as occupying the new dwelling in accordance with regulation 7(8) then that change of circumstances shall take effect on the first day on which the person is treated as occupying the new dwelling as the home under that regulation.”.
- (10) In Schedule 4 (applicable amounts)—
- (a) in paragraph 4 for “8” substitute “9”;
 - (b) omit paragraph 8 and the preceding heading; and
 - (c) omit paragraph 20(1)(65).
- (11) In Schedule 5 (sums to be disregarded in the calculation of earnings)—
- (a) in paragraph 1—
 - (i) in sub-paragraph (a) after “earnings” insert “paid or due to be paid”, and
 - (ii) for sub-paragraphs (b) and (c) substitute—
 - “(b) where before the first day of entitlement to housing benefit the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—
 - (i) any payment of the nature described in regulation 32(1)(e), or
 - (ii) any award, sum or payment of the nature described in—
 - (aa) regulation 32(1)(g), (h), or (j) (in so far as it relates to regulation 32(1)(g) or (h)), or
 - (bb) Article 66 or 102 of the Employment Rights (Northern Ireland) Order 1996(66) (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;
 - (c) where before the first day of entitlement to housing benefit—
 - (i) the employment had not been terminated, but
 - (ii) the claimant is not engaged in remunerative work,
 any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in regulation 32(1)(e), (i), (j) (in so far as it relates to regulation 32(1)(i) or (k)).”; and
 - (b) in paragraph 2—
 - (i) for “date of claim” substitute “first day of entitlement to housing benefit”;
 - (ii) after “earnings” where it first occurs insert “paid or due to be paid”;

(65) The amount in paragraph 20(1) was amended by Schedule 7 to S.R. 2007 No. 153

(66) S.I. 1996/1919 (N.I. 16)

- (iii) in head (i) for “earnings to which regulation 32(1)(e) applies” substitute “any payment of the nature described in regulation 32(1)(e)”, and
 - (iv) in head (ii) for “earnings to which regulation 32(1)(e), (i), (k) and (j) (in so far as it relates to regulation 32(1)(i)) applies” substitute “any payment or remuneration of the nature described in regulation 32(1)(e), (i), (j) (in so far as it relates to regulation 32(1)(i)) or (k)”.
- (12) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 12(1) 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(67)”;
 - (b) in paragraph 23 for sub-paragraphs (a) and (b)(68) 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 43 at the end add “or reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977(69) (rate relief in respect of dwellings)”.
- (13) In Schedule 7 (capital to be disregarded)—
- (a) in paragraph 38 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)”; and
 - (b) in paragraph 50(1) 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

- I15** Reg. 9(1)-(11)(12)(c)(13)(a) in operation at 1.10.2007, see [reg. 1\(1\)](#)
- I16** Reg. 9(12)(a) in operation at 7.4.2008, see [reg. 1\(2\)](#)
- I17** Reg. 9(12)(b) in operation at 1.4.2008 in so far as not already in force, see [reg. 1\(4\)](#)
- I18** Reg. 9(12)(b) in operation at 7.4.2008 for specified purposes, see [reg. 1\(4\)](#)
- I19** Reg. 9(13)(b) in operation at 7.4.2008, see [reg. 1\(2\)](#)

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

10.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(70) are amended in accordance with paragraphs (2) to (7).

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

(67) [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 \(N.I. 9\)](#))

(68) The amount in sub paragraph (b) was substituted by Article 19(9)(a) of [S.R. 2007 No. 153](#)

(69) [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 \(N.I. 18\)](#))

(70) [S.R. 2006 No. 406](#) to which there are amendments not relevant to these Regulations

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- (a) omit the definition of “lower rate”; and
- (b) after the definition of “sports award” insert—
 - ““starting rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);”.
- (3) In regulation 7(8) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—
 - (a) for “Where a person” substitute “Where”;
 - (b) in sub-paragraph (a), at the beginning, insert “a person”;
 - (c) for sub-paragraph (b) substitute—
 - “(b) either—
 - (i) that person had claimed housing benefit before moving in and either no decision has yet been made on that claim or it has been refused but a further claim has been made or treated as made within 4 weeks of the date on which the claimant moved into the new dwelling occupied as the home, or
 - (ii) that person notified the move to the new dwelling as a change of circumstances under regulation 65 before the move, or the move to the new dwelling was otherwise notified before the move under that regulation; and”;
 - (d) for “he shall be treated” substitute “the person shall be treated”.
- (4) In regulation 34(5)(a) (calculation of net earnings of employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.
- (5) In regulation 38(1) (deductions of tax and contributions of self-employed earners) for “lower rate”, in each place where it occurs, substitute “starting rate”.
- (6) For regulation 43 (calculation of capital in the United Kingdom) substitute—

“Calculation of capital in the United Kingdom

- 43.** 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 the sale, 10 per cent.; and
 - (b) the amount of any encumbrance secured on it.”.
- (7) In regulation 57 (date on which change of circumstances is to take effect)—
 - (a) in paragraph (3) for “and (11)” substitute “to (11A)”;
 - (b) after paragraph (11) insert—
 - “(11A) Where the change of circumstances is that the person moves to a new dwelling and immediately before the move that person is treated as occupying the new dwelling in accordance with regulation 7(8) then that change of circumstances shall take effect on the first day on which the person is treated as occupying the new dwelling as the home under that regulation.”.

Commencement Information

I20 Reg. 10 in operation at 1.10.2007, see [reg. 1\(1\)](#)

Revocations

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

Commencement Information

I21 Reg. 11 in operation at 1.10.2007, see [reg. 1\(1\)](#)

Sealed with the Official Seal of the Department for Social Development on 7th September 2007

(L.S.)

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

The Department of Finance and Personnel consents to regulations 9 and 10.

Sealed with the Official Seal of the Department of Finance and Personnel on 7th September 2007

(L.S.)

Adrian Arbuthnot
A senior officer of the Department of Finance
and Personnel

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SCHEDULE

Regulation 11

Revocations

Commencement Information

I22 Sch. in operation at 1.10.2007, see **reg. 1(1)**

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Income-Related Benefits Amendment No. 4) Regulations (Northern Ireland) 1992	S.R. 1992 No. 403	Regulation 4(2)
The Income-Related Benefits (Amendment No. 4) Regulations (Northern Ireland) 1993	S.R. 1993 No. 373	Regulation 4(21)(a)
The Social Security (Bereavement Benefits Amendment) Regulations (Northern Ireland) 2000	S.R. 2000 No. 260	Regulations 2(3), 3(2) and 5 (to the extent that they have not already been revoked)
The Social Security (Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 2001	S.R. 2001 No. 117	Regulation 2(a)
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order (Northern Ireland) 2005	S.R. 2005 No. 536	Schedule 3, paragraphs 12(7) and 23(11)(b)
The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2006	S.R. 2006 No. 359	Regulations 3, 9(3) and 12(4)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend:

- the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 (“the Invalid Care Allowance Regulations”);
- the Social Security (General Benefit) Regulations (Northern Ireland) 1984 (“the General Benefit Regulations”);
- the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”);

the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994 (“the Incapacity Benefit Regulations”);

the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 (“the Incapacity for Work Regulations”);

the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”);

the State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit Regulations”);

the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”); and

the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit (SPC) Regulations”).

Regulation 2 amends regulation 8(1) of the Invalid Care Allowance Regulations to replace the reference to the lower earnings limit with a reference to £95·00 for the purposes of ascertaining whether a person is gainfully employed.

Regulation 3 amends regulation 14 of the General Benefit Regulations to increase from £4,472·00 to £4,602·00 the prescribed amount of earnings that does not disqualify for unemployment supplement.

Regulation 4 and 7 amend the Income Support Regulations and the Jobseeker’s Allowance Regulations so as to:

replace references to repealed provisions of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, the Industrial Relations (Northern Ireland) Order 1976 and the Industrial Relations (No. 2) (Northern Ireland) Order 1976 with references to relevant provisions in the Employment Rights (Northern Ireland) Order 1996;

remove other miscellaneous incorrect cross-references.

Regulations 4, 7 and 9 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations and the Housing Benefit Regulations to disregard under the income and capital provisions:

any payments made to unwaged trainees corresponding to an educational maintenance allowance paid pursuant to section 3 of the Employment and Training Act (Northern Ireland) 1950;

any payments made as a result of a reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief in respect of dwellings).

Regulations 4, 7, 9 and the Schedule amend the Income Support Regulations, the Jobseeker’s Allowance Regulations and the Housing Benefit Regulations so as to:

ensure that no notional income is taken into account in calculating benefit for a person who participates in an approved, unpaid work placement provided this is agreed before the placement starts;

remove obsolete references arising from the cessation of the bereavement premium in April 2006;

introduce an aggregate disregard of £20 a week of income received from sub-tenants;

introduce a new disregard for most earnings normally paid on the termination of employment where this occurs before the date in respect of which the claimant first satisfies the conditions for entitlement to benefit.

Regulations 4 and 7 to 10 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations and the Housing

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Benefit (SPC) Regulations so that all capital assets are taken into account by reference to their current market or surrender value.

Regulations 4, 7, 9 and 10 amend the Income Support Regulations, the Jobseeker's Allowance Regulations, the Housing Benefit Regulations and the Housing Benefit (SPC) Regulations to substitute references to the "lower rate" of tax with "starting rate" following changes made by the Income Tax Act 2007.

Regulation 5 amends regulations 3A and 7 of the Incapacity Benefit Regulations to provide for certain days to be treated as days of incapacity for work and to increase the earnings limit for councillor's allowance from £86·00 to £88·50.

Regulation 6 amends regulation 17 of the Incapacity for Work Regulations to increase the weekly limit for earnings from exempt work from £86·00 to £88·50.

Regulation 8 amends the State Pension Credit Regulations so as to:

add "occupational pension scheme" to the definition of "pension fund holder";

ensure that, for the purposes of calculating notional income, only the amount of benefit which would have been in payment had the state pension been claimed shall be taken into account;

correct a typographical error in the formula for calculating the qualifying portion of a home loan or mortgage eligible for help as housing costs where there is more than one such loan and their total is greater than £100,000.

Regulations 9 and 10 amend the Housing Benefit Regulations and the Housing Benefit (SPC) Regulations to allow a person to claim housing benefit where they move to a new dwelling within the same area and are liable to make payments in respect of that dwelling before moving in, provided other relevant conditions, including those pertaining to the reason for delay, are met.

Regulation 11 makes consequential revocations.

In so far as these Regulations are required, for the purposes of regulations 9 and 10, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they 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 and paragraph 7 of Schedule 5A to, that Act, are not subject to the requirement of section 149(2) or, as the case may be, (2A) of that section for prior reference to the Social Security Advisory Committee or the Industrial Injuries Advisory Council.

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Changes and effects yet to be applied to :

- reg. 2 revoked by [S.R. 2010/81 reg. 5](#)
- reg. 3 revoked by [S.R. 2008/375 reg. 5](#)
- 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\(2\)](#)
- reg. 5(3) revoked by [S.R. 2008/375 reg. 5](#)
- reg. 6 revoked by [S.R. 2008/375 reg. 5](#)
- reg. 7(2)(c) revoked by [S.R. 2009/92 Sch.](#)
- reg. 7(8) revoked by [S.R. 2009/92 Sch.](#)
- reg. 7(9) revoked by [S.R. 2009/92 Sch.](#)
- reg. 7(10)(b) revoked by [S.R. 2009/92 Sch.](#)
- reg. 7(12) revoked by [S.R. 2009/92 Sch.](#)
- reg. 7(14)(a) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)
- reg. 7(14)(b) coming into force by [S.R. 2007/396 reg. 1\(3\)](#)
- reg. 7(15)(b) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)
- reg. 9(2)(b) revoked by [S.R. 2009/92 Sch.](#)
- reg. 9(5) revoked by [S.R. 2009/92 Sch.](#)
- reg. 9(6) revoked by [S.R. 2009/92 Sch.](#)
- reg. 9(7)(c) revoked by [S.R. 2009/92 Sch.](#)
- reg. 9(12)(a) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)
- reg. 9(12)(b) coming into force by [S.R. 2007/396 reg. 1\(4\)](#)
- reg. 9(12)(b) coming into force by [S.R. 2007/396 reg. 1\(4\)](#)
- reg. 9(13)(b) coming into force by [S.R. 2007/396 reg. 1\(2\)](#)
- reg. 10(2)(b) revoked by [S.R. 2009/92 Sch.](#)
- reg. 10(4) revoked by [S.R. 2009/92 Sch.](#)
- reg. 10(5) revoked by [S.R. 2009/92 Sch.](#)