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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 216**

**The Universal Credit Regulations (Northern Ireland) 2016**

**PART 1**

**INTRODUCTION**

*The Benefit Unit*

**Couples**

3.—(1) A couple may be entitled to universal credit as joint claimants where—

- (a) one member does not meet the basic condition in Article 9(1)(b) of the Order (under the qualifying age for state pension credit) if the other member does meet that condition, or
- (b) one member does not meet the basic condition in Article 9(1)(d) of the Order (not receiving education) and is not excepted from that condition if the other member does meet that condition or is excepted from it.

(2) A person who is a member of a couple may make a claim as a single person if the other member of the couple—

- (a) does not meet the basic condition in Article 9(1)(a) of the Order (at least 18 years old) and is not a person in respect of whom the minimum age specified in regulation 8 applies,
- (b) does not meet the basic condition in Article 9(1)(c) of the Order,
- (c) is a prisoner,
- (d) is a person other than a prisoner in respect of whom entitlement does not arise by virtue of regulation 19 (restrictions on entitlement), or
- (e) is a person to whom section 115 of the Immigration and Asylum Act 1999(1) (exclusion from benefits) applies,

and regulations 18 (capital), 38 (amounts of elements) and 23 (deduction of income and work allowance) provide for the calculation of the award in such cases.

(3) Where two people are parties to a polygamous marriage, the fact that they are husband and wife is to be disregarded if—

- (a) one of them is a party to an earlier marriage that still subsists, and
- (b) the other party to that earlier marriage is living in the same household,

and, accordingly, the person who is not a party to the earlier marriage may make a claim for universal credit as a single person.

(4) In paragraph (3) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

(5) Where the claimant is a member of a couple, and the other member is temporarily absent from the claimant's household, they cease to be treated as a couple if that absence is expected to exceed, or does exceed, 6 months.

**When a person is responsible for a child or qualifying young person**

4.—(1) Whether a person is responsible for a child or qualifying young person for the purposes of Part 2 of the Order and these Regulations is determined as follows.

(2) A person is responsible for a child or qualifying young person who normally lives with them.

(3) But a person is not responsible for a qualifying young person if the two of them are living as a couple.

(4) Where a child or qualifying young person normally lives with two or more persons who are not a couple, only one of them is to be treated as responsible and that is the person who has the main responsibility.

(5) The persons mentioned in paragraph (4) may jointly nominate which of them has the main responsibility but the Department may determine that question—

- (a) in default of agreement, or
- (b) if a nomination or change of nomination does not, in the opinion of the Department, reflect the arrangements between those persons.

(6) Subject to regulation 5, a child or qualifying young person is to be treated as not being the responsibility of any person during any period when the child or qualifying young person is—

- (a) looked after by an authority, or
- (b) a prisoner.

(7) Where a child or qualifying young person is temporarily absent from a person's household the person ceases to be responsible for the child or qualifying young person if—

- (a) the absence is expected to exceed, or does exceed, 6 months, or
- (b) the absence is from Northern Ireland and is expected to exceed, or does exceed, one month unless it is in circumstances where an absence of a person for longer than one month would be disregarded for the purposes of regulation 11(2) or (3) (death of close relative etc. or medical treatment or convalescence).

**Responsibility for children looked after by an authority**

5.—(1) There is excluded from regulation 4(6)(a)—

- (a) any period which is in the nature of a planned short term break, or is one of a series of such breaks, for the purpose of providing respite for the person who normally cares for the child or qualifying young person;
- (b) any period during which the child or qualifying young person is placed with, or continues to live with, their parent or a person who has parental responsibility for them.

(2) For the purposes of this regulation, a person has parental responsibility if they are not a foster parent and have parental responsibility within the meaning of Article 6 of the Children (Northern Ireland) Order 1995.

**Meaning of “qualifying young person”**

6.—(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of Part 2 of the Order and these Regulations—

- (a) up to, but not including, the 1st September following their 16th birthday, and

- (b) up to, but not including, the 1st September following their 19th birthday, if they are enrolled on, or accepted for, approved training or a course of education—
  - (i) which is not a course of advanced education,
  - (ii) which is provided at a school or college or provided elsewhere but approved by the Department, and
  - (iii) where the average time spent during term time in receiving tuition, engaging in practical work, or supervised study or taking examinations exceeds 12 hours per week.
- (2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.
- (3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.
- (4) “Approved training” means training provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department for Employment and Learning under the Employment and Training Act (Northern Ireland) 1950(2) whether that agreement is known as an operating agreement or by any other name.
- (5) A person who is receiving universal credit, an employment and support allowance or a jobseeker’s allowance is not a qualifying young person.