
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 198

The Jobseeker's Allowance Regulations (Northern Ireland) 1996

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance Regulations (Northern Ireland) 1996 and shall come into operation on 7th October 1996.

(2) In these Regulations—

“the Order” means the Jobseekers (Northern Ireland) Order 1995;

“the 1971 Act” means the Immigration Act 1971**(1)**;

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972**(2)**;

“the Child Support Order” means the Child Support (Northern Ireland) Order 1991**(3)**;

“the Registered Homes Order” means the Registered Homes (Northern Ireland) Order 1992**(4)**;

“attendance allowance” means—

- (a)** an attendance allowance under section 64 of the Benefits Act;
- (b)** an increase of disablement pension under section 104 or 105 of the Benefits Act (increases where constant attendance needed and for exceptionally severe disablement);
- (c)** a payment under regulations made in accordance with section 111 of the Benefits Act (payments for constant attendance in workmen's compensation cases);
- (d)** an increase in allowance which is payable in respect of constant attendance under section 111 of the Benefits Act (industrial diseases benefit schemes);
- (e)** a payment by virtue of Article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983**(5)** or any analogous payment;
- (f)** any payment based on the need for attendance which is paid as an addition to a war disablement pension;

“benefit week” means a period of 7 days ending on the day which corresponds with the day of the week specified in a notice given or sent to the claimant in accordance with regulation 23 (attendance), except—

(1) 1971 c. 77

(2) S.I. 1972/1265 (N.I. 14)

(3) S.I. 1991/2628 (N.I. 23)

(4) S.I. 1992/3204 (N.I. 20)

(5) S.I. 1983/686; relevant amending regulations are S.I. 1984/1675

- (a) where the Department requires attendance otherwise than at regular 2 weekly intervals, the “benefit week” ends on such day as the Department may specify in a notice in writing given or sent to the claimant, and
- (b) for the purpose of calculating any payment of income in accordance with Part VIII, “benefit week” also means the period of 7 days ending on the day before the first day of the benefit week following the date of claim or, as the case may be, the last day on which a jobseeker’s allowance is paid if it is in payment for less than a week;

“board and lodging accommodation” means—

- (a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked and prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises, or
- (b) accommodation provided to a person in a hotel, guest house, lodging house or some similar establishment,

except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;

“child benefit” means child benefit under Part IX of the Benefits Act;

“the Child Benefit Regulations” means the Child Benefit (General) Regulations (Northern Ireland) 1979(6);

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(7);

“close relative” means, except in Parts II, IV and V, a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“concessionary payment” means a payment made under arrangements made by the Department with the consent of the Department of Finance and Personnel which is charged either to the Northern Ireland National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Order or the Benefits Act are charged;

“couple” means a married or an unmarried couple;

“course of advanced education” means—

- (a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education, or a higher national diploma, or
- (b) any other course which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;

“course of study” means any course of study, including a course of advanced education and an employment-related course, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it and for the purposes of this definition a person who has started a course of study shall be treated as attending or undertaking it, as the case may be, until the last day of the course or such earlier date as he abandoned it or is dismissed from it;

(6) S.R. 1979 No. 5; relevant amending regulations are S.R. 1980 No. 261, S.R. 1982 No. 114, S.R. 1987 No. 130 and S.R. 1988 No. 273

(7) S.R. 1987 No. 465

“date of claim” means the date on which the claimant makes, or is treated as making, a claim for a jobseeker’s allowance for the purposes of regulation 6 of the Claims and Payments Regulations⁽⁸⁾;

“disability living allowance” means a disability living allowance under section 71 of the Benefits Act;

“disability working allowance” means a disability working allowance under section 128 of the Benefits Act;

“dwelling occupied as the home” means the dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home together with—

- (a) any agricultural land adjoining that dwelling, and
- (b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;

“earnings” has the meaning specified, in the case of an employed earner, in regulation 98, or in the case of a self-employed earner, in regulation 100;

“education and library board” means an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986⁽⁹⁾;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“employment-related course” means a course the purpose of which is to assist persons to acquire or enhance skills required for employment, for seeking employment or for a particular occupation;

“full-time student” means a person, other than a person in receipt of a training allowance, who is—

- (a) aged less than 19 and attending or undertaking a full-time course of advanced education, or
- (b) aged 19 or over but under pensionable age and attending or undertaking a full-time course of study;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

“Health and Social Services Board” means a Board established under Article 16 of the 1972 Order;

“HSS trust” means a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991⁽¹⁰⁾, by which functions are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994⁽¹¹⁾;

“housing association” has the meaning assigned to it by Article 3 of the Housing (Northern Ireland) Order 1992⁽¹²⁾;

“housing benefit expenditure” means expenditure of a kind for which housing benefit may be granted;

⁽⁸⁾ Regulation 6 was amended by S.R. 1988 No. 141, S.R. 1989 No. 398, S.R. 1990 No. 137, S.R. 1991 No. 488, S.R. 1992 No. 7, S.R. 1993 No. 375 and S.R. 1994 No. 345

⁽⁹⁾ S.I. 1986/594 (N.I. 3)

⁽¹⁰⁾ S.I. 1991/194 (N.I. 1)

⁽¹¹⁾ S.I. 1994/429 (N.I. 2)

⁽¹²⁾ S.I. 1992/1725 (N.I. 15)

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987⁽¹³⁾;

“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for Social Services for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

“the Independent Living Funds” means the Independent Living Fund, the Independent Living (Extension) Fund and the Independent Living (1993) Fund;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“jobseeking period” means the period described in regulation 47;

“last day of the course” has the meaning prescribed in regulation 130 for the purposes of the definition of “period of study” in this paragraph;

“liable relative” has the meaning prescribed in regulation 117;

“lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;

“lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988⁽¹⁴⁾ by virtue of section 832(1) of that Act;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State for Social Services to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State for Social Security for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 2nd May 1991 partly out of funds provided by the Secretary of State for Social Security, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“making a claim” includes treated as making a claim;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Articles 14 to 32 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976⁽¹⁵⁾;

“mobility supplement” means any supplement under Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽¹⁶⁾ including such a supplement by virtue of any other scheme or order or under Article 25A of the Personal Injuries (Civilians) Scheme 1983⁽¹⁷⁾;

(13) S.R. 1987 No. 459

(14) 1988 c. 1; the definition of “lower rate” was inserted by section 9(9) of the Finance Act 1992 (c. 20)

(15) S.I. 1976/2147 (N.I. 28); Articles 14 to 32 were substituted by Article 3 of, and Schedule 1 to, S.I. 1993/2668 (N.I. 11)

(16) S.I. 1983/883; Article 26A was inserted by S.I. 1983/1116 and amended by S.I. 1983/1521 and S.I. 1986/592

(17) S.I. 1983/686; Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540 and S.I. 1986/628

“net earnings” means such earnings as are calculated in accordance with regulation 99;

“net profit” means such profit as is calculated in accordance with regulation 101;

“non-dependant” has the meaning prescribed in regulation 2;

“non-dependant deduction” means a deduction that is to be made under regulation 83(f) and paragraph 17 of Schedule 2;

“nursing home” means—

- (a) any premises registered under Part III of the Registered Homes Order, or
- (b) any premises used for the reception of such persons or the provision of such nursing or services as is mentioned in Article 16 of the Registered Homes Order and which are maintained or controlled by any body of persons constituted by a statutory provision or incorporated by Royal Charter;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means where a claimant—

- (a) is a member of a married or an unmarried couple, the other member of that couple;
- (b) is married polygamously to 2 or more members of his household, any such member;

“part-time student” means a person who is attending or undertaking a course of study and who is not a full-time student;

“payment” includes a part of a payment;

“pay period” means the period in respect of which a claimant is, or expects to be, normally paid by his employer, being a week, a fortnight, four weeks, a month or other longer or shorter period as the case may be;

“period of study” except in Parts II, IV and V means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student’s grant is assessed at a rate appropriate to his study throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one, or
 - (ii) in any other case the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

“preserved rights” means preserved rights for the purposes of regulation 86;

“qualifying person” means a person in respect of whom payment has been made from the Fund or the Eileen Trust;

“relative” means close relative, grand-parent, grand-child, uncle, aunt, nephew or niece;

“relevant enactment” has the meaning prescribed in regulation 78(9);

“remunerative work” has the meaning prescribed in regulation 51(1);

“residential accommodation” has the meaning prescribed in regulation 85(4);

“residential allowance” means the weekly amount determined in accordance with paragraph 3 of Schedule 1;

“residential care home” means an establishment—

- (a) which is required to be registered under Part II of the Registered Homes Order and is so registered;
- (b) run by Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;
- (c) which provides residential accommodation with both board and personal care and is managed or provided by a body incorporated by Royal Charter or constituted by a statutory provision (other than a Health and Social Services Board or an HSS trust), or
- (d) which is exempt from registration under Part II of the Registered Homes Order pursuant to Article 4(4)(a) of that Order (requirement of registration) because one or more of the residents are treated as relatives pursuant to Article 2(6) of that Order,

and in paragraph (c) “personal care” means personal care for persons in need of personal care by reason of old age and infirmity, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;

“retirement annuity contract” means a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(18);

“sandwich course” has the meaning prescribed in regulation 3(1) of the Students Awards Regulations (Northern Ireland) 1995(19) and any person on a sandwich course shall be treated as attending or undertaking a course of advanced education or, as the case may be, attending or undertaking a course of study;

“self-employed earner” means a person who is gainfully employed in Northern Ireland or the Republic of Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment);

“single claimant” means a claimant who neither has a partner nor is a lone parent;

“terminal date” in respect of a claimant means the terminal date in his case for the purposes of regulation 7 of the Child Benefit Regulations;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a government department or by or on behalf of the Department of Economic Development;
- (b) to a person for his maintenance or in respect of a member of his family, and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

(18) 1988 c. 1

(19) S.R. 1995 No. 1

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education, other than under provision or arrangements under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945⁽²⁰⁾ or section 1(1) of the Employment and Training Act (Northern Ireland) 1950⁽²¹⁾, or is training as a teacher;

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association;

“war disablement pension” means a pension payable to a person in respect of disablement—

- (a) under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽²²⁾ and any order re-enacting the provisions of that Order;
- (b) under the Personal Injuries (Civilians) Scheme 1983⁽²³⁾, and any subsequent scheme made under the Personal Injuries (Emergency Provisions) Act 1939⁽²⁴⁾;
- (c) under any scheme made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽²⁵⁾ or the Polish Resettlement Act 1947⁽²⁶⁾ applying the provisions of any such order as is referred to in paragraph (a);
- (d) under the order made under section 1(5) of the Ulster Defence Regiment Act 1969⁽²⁷⁾ concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment⁽²⁸⁾;
- (e) under the order in council of 19th December 1881, the Royal Warrant of 27th October 1884, or the order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances);
- (f) paid by the Overseas Development Administration and which is analogous to any of the pensions mentioned in the preceding paragraphs;

“war widow’s pension” means a pension payable to a woman as a widow under any of the enactments mentioned in the definition of “war disablement pension” in respect of the death or disablement of any person;

“week” in Part III and regulation 87 means a period of 7 days;

“year of assessment” has the meaning prescribed in section 832(1) of the Income and Corporation Taxes Act 1988⁽²⁹⁾;

“young person” except in Part IV has the meaning prescribed in regulation 76.

(3) Any reference to the claimant’s family or, as the case may be, to a member of his family, shall be construed for the purposes of these Regulations as if it included in relation to a polygamous marriage a reference to any partner and to any child or young person who is treated as the responsibility of the claimant or his partner, where that child or young person is a member of the claimant’s household.

⁽²⁰⁾ 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

⁽²¹⁾ 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

⁽²²⁾ S.I. 1983/883

⁽²³⁾ S.I. 1983/686

⁽²⁴⁾ 1939 c. 83

⁽²⁵⁾ 1939 c. 83

⁽²⁶⁾ 1947 c. 19

⁽²⁷⁾ 1969 c. 65

⁽²⁸⁾ Cmnd 4567

⁽²⁹⁾ 1988 c. 1

(4) The Interpretation Act (Northern Ireland) 1954(30) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Definition of non-dependant

2.—(1) In these Regulations, “non-dependant” means any person, except a person to whom paragraph (2), (3) or (4) applies, who normally resides with the claimant or with whom the claimant normally resides.

(2) This paragraph applies to—

- (a) any member of the claimant’s family;
- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household);
- (c) a person who lives with the claimant in order to care for him or for the claimant’s partner and who is engaged for that purpose by a charitable or voluntary organisation (other than a Health and Social Services Board or an HSS trust) which makes a charge to the claimant or the claimant’s partner for the care provided by that person;
- (d) the partner of a person to whom sub-paragraph (c) applies.

(3) This paragraph applies to a person, other than a close relative of the claimant or the claimant’s partner—

- (a) who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of his occupation of the claimant’s dwelling;
- (b) to whom the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of his occupation of that person’s dwelling;
- (c) who is a member of the household of a person to whom sub-paragraph (a) or (b) applies.

(4) Subject to paragraph (5), this paragraph applies to—

- (a) a person who jointly occupies the claimant’s dwelling and who is either—
 - (i) a co-owner of that dwelling with the claimant or the claimant’s partner (whether or not there are other co-owners), or
 - (ii) jointly liable with the claimant or the claimant’s partner to make payments to a landlord in respect of his occupation of that dwelling, or
- (b) a partner of a person to whom sub-paragraph (a) applies.

(5) Where a person is a close relative of the claimant or the claimant’s partner, paragraph (4) shall apply to him only if the claimant’s, or the claimant’s partner’s, co-ownership, or joint liability to make payments to a landlord in respect of his occupation, of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant’s partner first occupied the dwelling in question.

(6) For the purposes of this regulation a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.

(7) In this regulation “communal area” means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

Meanings of certain expressions used in the Order

3. For the purposes of the Order and of these Regulations—

“employed earner” has the meaning it has in Part I of the Benefits Act by virtue of section 2(1) (a) of that Act;

“employment” except as provided in regulation 4, includes any trade, business, profession, office or vocation;

“pensionable age” has the meaning it has in Parts I to VI of the Benefits Act by virtue of section 121(1) of that Act⁽³¹⁾.

(31) The definition of “pensionable age” was substituted by paragraph 9(a) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))