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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 156**

**The Social Security (Miscellaneous Amendments  
No. 2) Regulations (Northern Ireland) 1997**

**Amendment of the Social Security (Claims and Payments) Regulations**

**3.—(1)** The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(1) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1) (interpretation) after the definition of “the Act” there shall be inserted the following definitions—

““the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”.

(3) In regulation 4 (making a claim for benefit)—

(a) in paragraph (1) after “Every claim for benefit” there shall be inserted “, other than a claim for income support or jobseeker’s allowance,”;

(b) after paragraph (1) there shall be inserted the following paragraphs—

“(1A) In the case of a claim for income support or jobseeker’s allowance, the claim shall—

(a) be made in writing on a form approved by the Department for the purpose of the benefit for which the claim is made; and

(b) unless any of the reasons specified in paragraph (1B) applies—

(i) be made in accordance with the instructions on the form, and

(ii) include such information and evidence as the form may require in connection with the claim.

(1B) The reasons referred to in paragraph (1A)(b) are that—

(a) the person making the claim is unable to complete the form in accordance with the instructions or to obtain the information or evidence required because he has a physical, learning, mental or communication difficulty, and it is not reasonably practicable for him to obtain assistance from another person to complete the form or obtain the information or evidence;

(b) the information or evidence required by the form does not exist;

(c) the information or evidence required can be obtained only at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for him to obtain such information or evidence by other means;

- (d) the information or evidence required can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain such information or evidence from such third party; or
  - (e) the Department is of the opinion that the person making the claim has provided sufficient information or evidence to show that he is not entitled to the benefit for which the claim is made, and that it would be inappropriate to require the form to be completed or further information or evidence to be supplied.
- (1C) If a person making a claim is unable to complete the claim form or supply the information or evidence required because any of the reasons specified in paragraph (1B) (a) to (d) applies, he may so notify an appropriate office by whatever means.”;
- (c) for paragraph (5) there shall be substituted the following paragraph—

“(5) Where a person who wishes to make a claim for benefit and who has not been supplied with an approved form of claim notifies an appropriate office (by whatever means) of his intention to make a claim, he shall be supplied, without charge, with such form of claim by such person as the Department may appoint or authorise for that purpose.”;
  - (d) in paragraph (7) after “If a claim” there shall be inserted “, other than a claim for income support or jobseeker’s allowance,”;
  - (e) after paragraph (7) there shall be inserted the following paragraph—

“(7A) In the case of a claim for income support or jobseeker’s allowance, if a defective claim is received, the Department shall advise the person making the claim of the defect and of the relevant provisions of regulation 6(1A) or (4A) relating to the date of claim.”; and
  - (f) for paragraph (8) there shall be substituted the following paragraphs—

“(8) A claim, other than a claim for income support or jobseeker’s allowance, which is made on the form approved for the time being is, for the purposes of these Regulations, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(9) In the case of a claim for income support or jobseeker’s allowance, a properly completed claim is a claim which meets the requirements of paragraph (1A) and a defective claim is a claim which does not meet those requirements.”.
- (4) In regulation 6 (date of claim)—
- (a) in paragraph (1)—
    - (i) for “Subject to paragraphs (3) to (7)” there shall be substituted “Subject to the following provisions of this regulation”, and
    - (ii) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) in the case of a claim for family credit, disability working allowance, jobseeker’s allowance (if first notification is received before 6th October 1997) or income support (if first notification is received before 6th October 1997) which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5), whichever is the later of—

      - (i) the date on which that notification is received, and
      - (ii) the first date on which that claim could have been made in accordance with these Regulations;”;
  - (b) after paragraph (1) there shall be inserted the following paragraph—

- “(1A) In the case of a claim for income support—
- (a) subject to the following sub-paragraphs, the date on which a claim is made shall be the date on which a properly completed claim form is received in an appropriate office, or the first day in respect of which the claim is made, whichever is the later;
  - (b) where a properly completed claim form is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date on which that notification is deemed to be made, or the first day in respect of which the claim is made, whichever is the later;
  - (c) a notification of intention to make a claim shall be deemed to be made on the date when an appropriate office receives—
    - (i) a notification in accordance with regulation 4(5), or
    - (ii) a defective claim.”;
- (c) in paragraph (3)(2) for “, jobseeker’s allowance or a social fund payment for maternity or funeral expenses” there shall be substituted “or jobseeker’s allowance”;
- (d) for paragraph (4A)(3) there shall be substituted the following paragraphs—
- “(4A) Where a person notifies the Department (by whatever means) that he wishes to claim a jobseeker’s allowance—
- (a) if, under regulation 4(6)(a), he is required to attend—
    - (i) where he subsequently attends for the purpose of making a claim for that benefit at the time and place specified by the Department and complies with the requirements of paragraph (4AA), the claim shall be treated as made on whichever is the later of first notification of intention to make that claim and the first day in respect of which the claim is made;
    - (ii) where, without good cause, he fails to attend for the purpose of making a claim for that benefit at either the time or place so specified, or does not comply with the requirements of paragraph (4AA), the claim shall be treated as made on the first day on which he does attend at that place and does provide a properly completed claim;
  - (b) if, under regulation 4(6)(a), the Department directs that he is not required to attend—
    - (i) subject to head (ii), the date on which the claim is made shall be the date on which a properly completed claim form is received in an appropriate office, or the first day in respect of which the claim is made, whichever is the later;
    - (ii) where a properly completed claim form is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification.
- (4AA) Unless the Department otherwise directs, a properly completed claim form shall be provided at or before the time when the person making the claim for a jobseeker’s allowance is required to attend for the purpose of making a claim and the Department may direct that the time for providing a properly completed claim form may be extended to a date not later than the date one month after the date of first notification of intention to make that claim.”; and

(2) Paragraph (3) was added by regulation 2(c) of S.R. 1988 No. 141 and amended by regulation 6(3) of S.R. 1991 No. 488, regulation 4(a) of S.R. 1992 No. 7 and regulation 2(5)(a) of S.R. 1996 No. 354

(3) Paragraph (4A) was inserted by regulation 2(5)(c) of S.R. 1996 No. 354

(e) after paragraph (11)(4) there shall be added the following paragraphs—

“(12) Subject to paragraph (14), where a person has claimed disability working allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (13), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(13) The circumstances referred to in paragraph (12) are that—

- (a) the original claim was refused on the ground that the claimant did not qualify under section 128(2) of the Contributions and Benefits Act(5);
- (b) at the date of the original claim the claimant had made a claim for a qualifying benefit, and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant’s favour; and
- (d) the further claim for disability working allowance was made within 3 months of the date on which the claim for the qualifying benefit was determined.

(14) Paragraph (12) shall not apply in a case where the further claim for disability working allowance is made within the period prescribed under section 28(1) of the Administration Act, and is accordingly treated as an application for a review under section 28(13) of that Act.

(15) In paragraphs (12) and (13) “qualifying benefit” means any of the benefits referred to in section 128(2) of the Contributions and Benefits Act.

(16) Where a person has claimed severe disablement allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (17), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the highest rate of the care component of disability living allowance was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that—

- (a) the original claim was refused on the ground that the claimant’s disablement was less than 80 per cent.;
- (b) at the date of the original claim the claimant had made a claim for disability living allowance, and that claim had not been determined;
- (c) after the original claim had been determined, the claimant was awarded the highest rate of the care component of disability living allowance; and
- (d) the further claim for severe disablement allowance was made within 3 months of the date on which the claim for disability living allowance was determined.

(18) Where a person has ceased to be entitled to incapacity benefit, and a further claim for incapacity benefit is made in the circumstances specified in paragraph (19), that further claim shall be treated as made—

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(4) Paragraph (11) was added by regulation 4(e) of S.R. 1992 No. 7

(5) Section 128(2) was amended by paragraph 32 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and paragraph 17 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

- (a) on the date on which entitlement to incapacity benefit ceased; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(19) The circumstances referred to in paragraph (18) are that—

- (a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;
- (b) at the date on which entitlement to incapacity benefit ceased the claimant had made a claim for a qualifying benefit, and that claim had not been determined;
- (c) after entitlement to incapacity benefit had ceased, the claim for the qualifying benefit was determined in the claimant's favour; and
- (d) the further claim for incapacity benefit was made within 3 months of the date on which the claim for the qualifying benefit was determined.

(20) In paragraphs (18) and (19) “qualifying benefit” means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995<sup>(6)</sup> (certain persons with a severe condition to be treated as incapable of work).

(21) Where a person has claimed invalid care allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (22), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable in respect of the disabled person,

whichever is the later.

(22) The circumstances referred to in paragraph (21) are that—

- (a) the original claim was refused on the ground that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the disabled person had made a claim for a qualifying benefit, and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the disabled person's favour; and
- (d) the further claim for invalid care allowance was made within 3 months of the date on which the claim for the qualifying benefit was determined.

(23) In paragraphs (21) and (22)—

“the disabled person” means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act;

“qualifying benefit” means any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act.

(24) Where a person has claimed a social fund payment in respect of maternity or funeral expenses and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (25), that further claim shall be treated as made—

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<sup>(6)</sup> S.R. 1995 No. 41; regulation 10(2)(a) was substituted by regulation 4(3)(b)(i) of S.R. 1995 No. 149

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was awarded,

whichever is the later.

- (25) The circumstances referred to in paragraph (24) are that—
  - (a) the original claim was refused on the ground that the claimant had not been awarded a qualifying benefit;
  - (b) at the date of the original claim the claimant had made a claim for a qualifying benefit, and that claim had not been determined;
  - (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant’s favour; and
  - (d) the further claim for a social fund payment was made within 3 months of the date on which the claim for the qualifying benefit was determined.
- (26) In paragraphs (24) and (25) “qualifying benefit” means—
  - (a) in the case of a claim for a payment in respect of maternity expenses, any benefit referred to in regulation 4(1)(a) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(7);
  - (b) in the case of a claim for a payment in respect of funeral expenses, any benefit referred to in regulation 6(1)(a) of those Regulations(8).
- (27) Where a claim is made for family credit or disability working allowance and—
  - (a) the claimant had previously made a claim for income support or jobseeker’s allowance (“the original claim”);
  - (b) the original claim was refused on the ground that the claimant or his partner was in remunerative work; and
  - (c) the claim for family credit or disability working allowance was made within 14 days of the date on which the original claim was determined,

that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by him.

- (28) Where a claim is made for income support or jobseeker’s allowance and—
  - (a) the claimant had previously made a claim for family credit or disability working allowance (“the original claim”);
  - (b) the original claim was refused on the ground that the claimant or his partner was not in remunerative work; and
  - (c) the claim for income support or jobseeker’s allowance was made within 14 days of the date on which the original claim was determined,

that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by him.”.

- (5) In regulation 10 (claim for incapacity benefit or severe disablement allowance where no entitlement to statutory sick pay or statutory maternity pay)—
  - (a) paragraph (2)(b) shall be omitted; and
  - (b) in paragraph (4)—
    - (i) in sub-paragraph (a) for “one month” there shall be substituted “3 months”, and

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(7) S.R. 1987 No. 150; regulation 4(1)(a) was substituted by regulation 3(1)(a) of S.R. 1988 No. 22 and amended by regulation 9(2) of S.R. 1992 No. 6 and regulation 3 of S.R. 1996 No. 423

(8) Regulation 6 was substituted by regulation 2(5) of S.R. 1997 No. 155

(ii) sub-paragraph (b) shall be omitted.

(6) In regulation 11(2) (special provisions where it is certified that a woman is expected to be confined or where she has been confined) for “one month” there shall be substituted “3 months”.

(7) For regulation 19 (time for claiming benefit) there shall be substituted the following regulation—

“**19.**—(1) Subject to the following provisions of this regulation, the prescribed time for claiming any benefit specified in column (1) of Schedule 4 is the appropriate time specified opposite that benefit in column (2) of that Schedule.

(2) The prescribed time for claiming any benefit specified in paragraph (3) is 3 months beginning with any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the benefit concerned.

(3) The benefits to which paragraph (2) applies are—

- (a) child benefit;
- (b) guardian’s allowance;
- (c) graduated retirement benefit<sup>(9)</sup>;
- (d) invalid care allowance;
- (e) maternity allowance;
- (f) retirement pension of any category;
- (g) widow’s benefit; and
- (h) except in a case to which section 3(3) of the Administration Act applies, any increase in any benefit, other than income support or jobseeker’s allowance, in respect of a child or adult dependant.

(4) Subject to paragraph (8), in the case of a claim for income support, jobseeker’s allowance, family credit or disability working allowance, where the claim is not made within the time specified for that benefit in Schedule 4, the prescribed time for claiming the benefit shall be extended, subject to a maximum extension of 3 months, to the date on which the claim is made, where—

- (a) any of the circumstances specified in paragraph (5) applies or has applied to the claimant; and
- (b) as a consequence the claimant could not reasonably have been expected to make the claim earlier.

(5) The circumstances referred to in paragraph (4)(a) are—

- (a) the claimant has difficulty communicating because—
  - (i) he has learning, language or literacy difficulties, or
  - (ii) he is deaf or blind,and it was not reasonably practicable for him to obtain assistance from another person to make his claim;
- (b) except in the case of a claim for jobseeker’s allowance, the claimant was ill or disabled, and it was not reasonably practicable for him to obtain assistance from another person to make his claim;

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(9) Graduated retirement benefit is payable under section 35 of the National Insurance Act (Northern Ireland) 1966 (1966 c. 6 (N.I.)); section 35 was repealed by the Social Security Act 1973 (c. 38) but is continued in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978 (S.R. 1978 No. 105); see also S.R. 1995 No. 483

- (c) the claimant was caring for a person who is ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
  - (d) the claimant was given information by an officer of the Department which led the claimant to believe that a claim for benefit would not succeed;
  - (e) the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner or Health and Social Services Board, or by a person working in a Citizens Advice Bureau or similar advice agency, which led the claimant to believe that a claim for benefit would not succeed;
  - (f) the claimant or his partner was given written information about his income or capital by his employer or former employer, or by a bank or building society, which led the claimant to believe that a claim for benefit would not succeed;
  - (g) the claimant was required to deal with a domestic emergency affecting him and it was not reasonably practicable for him to obtain assistance from another person to make his claim; or
  - (h) the claimant was prevented by adverse weather conditions from attending the appropriate office.
- (6) In the case of a claim for income support, jobseeker's allowance, family credit or disability working allowance, where—
- (a) the claim is not made within the time specified for that benefit in Schedule 4, but is made within one month of the expiry of that time; and
  - (b) the Department considers that to do so would be consistent with the proper administration of benefit,

it may direct that the prescribed time for claiming shall be extended by such period as it considers appropriate, subject to a maximum of one month, where any of the circumstances specified in paragraph (7) applies.

- (7) The circumstances referred to in paragraph (6) are—
- (a) the appropriate office where the claimant would be expected to make a claim was closed and alternative arrangements were not available;
  - (b) the claimant was unable to attend the appropriate office due to difficulties with his normal mode of transport and there was no reasonable alternative available;
  - (c) there were adverse postal conditions;
  - (d) the claimant was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to him before the date on which his entitlement expired;
  - (e) in the case of a claim for family credit, the claimant had previously been entitled to income support or jobseeker's allowance ("the previous benefit"), and the claim for family credit was made within one month of expiry of entitlement to the previous benefit;
  - (f) except in the case of a claim for family credit or disability working allowance, the claimant had ceased to be a member of a married or unmarried couple within the period of one month before the claim was made; or
  - (g) during the period of one month before the claim was made a close relative of the claimant had died, and for this purpose "close relative" means a partner, parent, son, daughter, brother or sister.



(8) This regulation shall not have effect with respect to a claim to which regulation 21A(2) of the Income Support (General) Regulations (Northern Ireland) 1987<sup>(10)</sup> (treatment of refugees) applies.”

(8) In Schedule 4<sup>(11)</sup> (prescribed times for claiming benefit) in paragraph 2 in column (2) for “one month” there shall be substituted “3 months”.

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<sup>(10)</sup> S.R. 1987 No. 459; regulation 21A was inserted by regulation 2(3) of S.R. 1996 No. 449

<sup>(11)</sup> Paragraph 2 was substituted by regulation 2(13) of S.R. 1994 No. 456