

2005 No. 98

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments)
Regulations (Northern Ireland) 2005**

Made - - - - - *10th March 2005*

Coming into operation *4th April 2005*

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(a) and (d), 132(3) and (4)(a) and (b), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 14(1), (4)(a) and (b), and 36(2) of the Jobseekers (Northern Ireland) Order 1995(b) and now vested in it(c), and sections 15(1)(j) and (6)(b) of the State Pension Credit Act (Northern Ireland) 2002(d) and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(e), in so far as regulations 2(2), (5), (9)(b), (10) and regulation 4 are concerned and after agreement by the Social Security Advisory Committee that proposals in respect of those Regulations should not be referred to it(f), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 4th April 2005.

(2) In these Regulations –

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987(g);

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

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

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- (a) 1992 c. 7; section 132A(3) was inserted by section 14 of and paragraph 3 of Part I of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14), section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (c) See Article 8(b) of and Part II of Schedule 6 to S.R. 1999 No. 481
- (d) 2002 c. 14 (N.I.)
- (e) 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 and Part II of Schedule 4 to S.R. 1999 No. 481
- (f) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (g) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1995 Nos. 410 and 481, S.R. 1998 No. 81 and S.R. 2002 No. 128
- (h) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1995 Nos. 410 and 481, S.R. 1996 No. 449, S.R. 1997 No. 22, S.R. 1998 Nos. 81 and 326, S.R. 2000 No. 260, S.R. 2002 No. 128 and S.R. 2003 No. 195
- (i) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 503, S.R. 1998 Nos. 81 and 326, S.R. 2002 No. 128 and S.R. 2003 No. 195

“the State Pension Credit Regulations” means the State Pension Credit Regulations (Northern Ireland) 2003(a).

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

Amendments in relation to the Armed Forces and Reserve Forces Compensation Scheme

2.—(1) In each of the provisions specified in paragraph (2) at the appropriate place, there shall be inserted the following definitions –

““the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(c);”;

““a guaranteed income payment” means a payment under Article 14(1)(b) or Article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(d);”

(2) The provisions specified for the purposes of paragraph (1) are –

- (a) regulation 2(1) of the Housing Benefit Regulations (interpretation);
- (b) regulation 2(1) of the Income Support Regulations (interpretation);
- (c) regulation 1(2) of the Jobseeker’s Allowance Regulations (citation, commencement and interpretation);
- (d) regulation 1(2) of the State Pension Credit Regulations (citation, commencement and interpretation).

(3) In regulation 15(5) of the State Pension Credit Regulations(e), (income for the purposes of the Act) after sub-paragraph (a) there shall be inserted the following sub-paragraphs –

- “(aa) a guaranteed income payment;
- (ab) a payment made under Article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 but only where the condition referred to in Article 23(2)(c) is met;”.

(4) The amendments made by paragraph (5) and (9)(b) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003(f) applies.

(5) In regulation 25(1) of the Housing Benefit Regulations(g) (meaning of “income”) after sub-paragraph (d) there shall be inserted the following sub-paragraphs –

- “(dd) a guaranteed income payment;
- (de) a payment made under Article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 but only where the condition referred to in Article 23(2)(c) is met;”.

(6) In regulations 42(4)(a)(i) of the Income Support Regulations(h) (notional income) and 51(3)(a)(i)(i) (notional capital) after “benefit Acts,” there shall be inserted “a payment from the Armed Forces and Reserve Forces Compensation Scheme,”.

(a) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 421
(b) 1954 c. 33 (N.I.)
(c) 2004 c. 32
(d) S.I. 2005/439
(e) Regulation 15(5) was amended by regulation 2(7) of S.R. 2003 No. 421
(f) S.R. 2003 No. 197
(g) Regulation 25 was inserted by regulation 8 of S.R. 2003 No. 197 and paragraph (1) was amended by regulation 2(5)(b) of S.R. 2003 No. 418 and regulation 2(10) of S.R. 2004 No. 394
(h) Regulation 42(4) was substituted by regulation 9(a) of S.R. 1988 No. 318 and amended by regulation 5(2) of S.R. 1995 No. 410, regulation 2(1)(a) and (2) of S.R. 1995 No. 481, regulation 2(2) of S.R. 1998 No. 326, regulation 2(3) of S.R. 2002 No. 128, regulation 2 and paragraph 10(e)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195
(i) Regulation 51(3) was substituted by paragraph 11(a) of S.R. 1988 No. 318 and amended by regulation 9 of S.R. 1997 No. 22, regulation 3(2)(a) of S.R. 1998 No. 326, regulation 2(4) of S.R. 2002 No. 128, regulation 2 and paragraph 13(a)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195

(7) In regulations 105(10)(a)(i) of the Jobseeker's Allowance Regulations(a) (notional income) and 113(3)(a)(i)(b) (notional capital) after "Benefits Act," there shall be inserted "a payment from the Armed Forces and Reserve Forces Compensation Scheme,".

(8) In each of the provisions specified in paragraph (9) –

(a) after sub-paragraph (c) there shall be inserted the following sub-paragraph –

“(cc) a guaranteed income payment;”;

(b) in sub-paragraph (d) after “pension” there shall be inserted “or payment”;

(c) in sub-paragraph (e) for “pensions mentioned in sub-paragraphs (a) to (c)” there shall be substituted “pensions or payments mentioned in sub-paragraphs (a) to (cc)”

(9) The provisions specified for the purposes of paragraph (8) (which relate to the sums to be disregarded in the calculation of income other than earnings) are –

(a) paragraph 16 of Schedule 9 to the Income Support Regulations(c);

(b) paragraph 1 of Schedule 4A to the Housing Benefit Regulations(d);

(c) paragraph 1 of Schedule 4 to the State Pension Credit Regulations(e).

(10) In Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) –

(a) in paragraph 13(f) –

(i) after sub-paragraph (c) there shall be inserted the following sub-paragraph –

“(cc) a guaranteed income payment;”;

(ii) in sub-paragraph (d) after “pension” there shall be inserted “or payment”;

(b) in paragraph 14(g) –

(i) after “paid” there shall be inserted “or payment made”;

(ii) for “pension to which paragraph 13(a) to (c) refers” there shall be substituted “pension or payments made to which paragraph 13(a) to (cc) refers”.

(11) In Schedule 6, paragraph 17(h) to the Jobseeker's Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) –

(a) after sub-paragraph (a) there shall be inserted the following sub-paragraph –

“(aa) a guaranteed income payment or a payment made to compensate for the non-payment of a guaranteed income payment;”;

(b) in sub-paragraph (b) after “war widower's pension” there shall be inserted “or analogous to a guaranteed income payment”;

(c) in sub-paragraph (e) after “pensions” there shall be inserted “or analogous to a guaranteed income payment”.

Amendment of the Income Support Regulations

3.—(1) Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph 5(i) after the words “housing benefit” where they first appear, there shall be inserted “to which the claimant is entitled”.

(a) Regulation 105(10)(a)(i) was substituted by regulation 2(1)(a) of S.R. 1998 No. 326 and amended by regulation 4(3) of S.R. 2002 No. 128, regulation 3 and paragraph 10(c)(i) and (ii) of Schedule 2 to S.R. 2003 No. 195

(b) Regulation 113(3)(a)(i) was amended by regulation 4(4) of S.R. 2002 No. 128 and regulation 3 and paragraph 13(a)(ii) of Schedule 2 to S.R. 2003 No. 195

(c) Paragraph 16 was substituted by regulation 5(3) of S.R. 1995 No. 410 and amended by regulation 2(4) of S.R. 2000 No. 260 and regulation 2(5)(a) and (b) of S.R. 2002 No. 128

(d) Schedule 4A has effect by virtue of regulation 12 and Schedule 2, paragraph 1(b) of S.R. 2003 No. 197

(e) Paragraph 1 was amended by regulation 2(10)(a) of S.R. 2003 No. 421

(f) Paragraph 13 was substituted by regulation 4(2)(a) of S.R. 1995 No. 410 and amended by regulation 2(2) of S.R. 1995 No. 481 and regulation 3(3)(a) and (b) of S.R. 2002 No. 128

(g) Paragraph 14 was substituted by regulation 4(2)(b) of S.R. 1995 No. 410

(h) Paragraph 17 was amended by regulation 4(5)(a) and (b) of S.R. 2002 No. 128

(i) Paragraph 5 was amended by regulation 2(5)(a) of S.R. 1996 No. 449

(3) In paragraph 27(a)(i)(a) after “authority” there shall be added “but excluding payments of housing benefit made in respect of the person concerned”.

Amendment of the Housing Benefit Regulations

4.—(1) In Schedule 4, paragraph 27(a)(i)(b) to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) after “authority” there shall be added “but excluding payments of housing benefit made in respect of the person concerned”.

(2) The amendment made by paragraph (3) is to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 applies.

(3) In regulation 33(2)(d)(i) of the Housing Benefit Regulations (earnings of self-employed earners) after “authority” there shall be added “but excluding payments of housing benefit made in respect of the person concerned”.

Amendment of the Jobseeker’s Allowance Regulations

5.—(1) The Jobseeker’s Allowance Regulations shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (citation, commencement and interpretation) the definitions of “earnings top-up” and “the Earnings Top-up Scheme”(c) shall be omitted.

(3) In regulation 103(d) (calculation of income other than earnings) paragraph (4) shall be omitted.

(4) In regulation 105 (notional income) paragraph (2)(f) shall be omitted.

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

(a) in paragraph 6 after “benefit” there shall be added “to which the claimant is entitled”;

(b) in paragraph 28(a)(i)(e) after “authority” there shall be added “but excluding payments of housing benefit made in respect of the person concerned”.

(6) In Schedule 7, (capital to be disregarded) paragraph 12(1)(c)(f) shall be omitted.

Sealed with the Official Seal of the Department for Social Development on 10th March 2005.

(L.S.)

John O’Neill

A senior officer of the Department for Social Development

The Department of Finance and Personnel hereby consents to regulation 2(2), (5), (9)(b), (10) and regulation 4.

Sealed with the Official Seal of the Department of Finance and Personnel on 11th March 2005.

(L.S.)

Ciaran Doran

A senior officer of the Department of Finance and Personnel

(a) Paragraph 27 was substituted by regulation 4(1) of S.R. 1998 No. 81

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

(c) The definitions of “earnings top-up” and “the Earnings Top-up Scheme” were inserted by regulation 2(2)(c) of S.R. 1996 No. 503

(d) Regulation 103(4) was substituted by regulation 9(2)(a) of S.R. 1998 No. 81

(e) Paragraph 28 was substituted by regulation 4(1) of S.R. 1998 No. 81

(f) Paragraph 12(1)(c) was inserted by regulation 2(21) of S.R. 1996 No. 503

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Income Support (General) Regulations (Northern Ireland) 1987, the Housing Benefit (General) Regulations (Northern Ireland) 1987 and the Jobseeker's Allowance Regulations (Northern Ireland) 1996 ("the Income-related Benefits Regulations"). These Regulations also further amend the State Pension Credit Regulations (Northern Ireland) 2003 ("the State Pension Credit Regulations").

Regulation 2(1) amends the interpretation provisions of the Income-related Benefits Regulations and the State Pension Credit Regulations in relation to the introduction of the Armed Forces and Reserve Forces Compensation Scheme ("the new scheme") established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (c. 32).

Regulation 2(3) amends regulation 15(5) of the State Pension Credit Regulations adding certain payments made under the new scheme to the descriptions of income which are prescribed for the purposes of section 15(1)(j) of the State Pension Credit Act (Northern Ireland) 2002 (c. 14).

Regulation 2(5) makes similar amendment to the Housing Benefit (General) Regulations (Northern Ireland) 1987 as modified by the Housing Benefit (State Pension Credit) Regulations (Northern Ireland) 2003 for persons who have attained the qualifying age for state pension credit.

Regulation 2(6) and (7) amends the Income Support (General) Regulations (Northern Ireland) 1987 and the Jobseeker's Allowance Regulations (Northern Ireland) 1996 respectively to include within the notional income and notional capital rules, payments made under the new scheme.

Regulation 2(8) to (11) provides an income disregard for guaranteed income payments made under the new scheme.

The Income-related Benefits Regulations are amended to exclude from the full income disregard, payments of housing benefit received by claimants direct from an authority in respect of persons temporarily in their care (regulations 3, 4 and 5).

The Jobseeker's Allowance Regulations are also amended to remove outdated references to "earnings top-up" and "the Earnings Top-up Scheme" (regulation 5(2), (3), (4) and (6)).

In so far as these Regulations are required, for the purposes of regulations 2(2), (5), (9)(b), (10) and regulation 4 to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, ("the 1992 Act"), 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 to, the 1992 Act, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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