
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 498

**The Social Security (Miscellaneous Amendments
No. 7) Regulations (Northern Ireland) 2008**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 7) Regulations (Northern Ireland) 2008 and, subject to paragraph (2), shall come into operation on 5th January 2009.

(2) Regulations 2(6)(c) and (d)(ii), 3(6)(b), (c) and (j) and (7)(a), 4(3)(a), (4)(a)(iii) and (iv) and (e) and (5)(b) and (d) and 8(3)(a) 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 5th January 2009.

(3) In this regulation “benefit week” has the same meaning as in—

- (a) regulation 2(1)(1) of the Income Support (General) Regulations (Northern Ireland) 1987(2), so far as it relates to regulation 2(6)(c) and (d)(ii);
- (b) regulation 1(2)(3) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(4), so far as it relates to regulation 3(6)(b), (c) and (j) and (7)(a);
- (c) regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(5), so far as it relates to regulation 4(3)(a), (4)(a)(iii) and (iv) and (e) and (5)(b) and (d);
- (d) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(6), so far as it relates to regulation 8(3)(a).

(4) The Interpretation Act (Northern Ireland) 1954(7) shall apply to these Regulations as it applies to an Act of the Assembly.

Commencement Information

II Reg. 1 in operation at 5.1.2009, see [reg. 1\(1\)](#)

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- (1) The definition of “benefit week” was amended by regulation 2(a) of S.R. 1988 No. 318
 - (2) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1989 No. 366, S.R. 1990 Nos. 131 and 346, S.R. 1992 Nos. 6 and 147, S.R. 1993 No. 120, S.R. 1994 Nos. 77 and 327, S.R. 1995 Nos. 86, 367, 410 and 481, S.R. 1996 No. 449, S.R. 1997 Nos. 22 and 331, S.R. 1998 Nos. 2 and 326, S.R. 2000 Nos. 222 and 242, S.R. 2001 No. 392, S.R. 2002 No. 128, S.R. 2003 No. 195, S.R. 2005 Nos. 98, 424, 536 and 539, S.R. 2006 No. 407 and S.R. 2008 No. 286
 - (3) 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
 - (4) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 Nos. 358 and 503, S.R. 1997 Nos. 331 and 541, S.R. 1998 Nos. 2, 198 and 326, S.R. 2000 Nos. 242, 260 and 350, S.R. 2001 No. 392, S.R. 2002 Nos. 128 and 222, S.R. 2003 Nos. 195 and 338, S.R. 2005 Nos. 98, 424 and 536, S.R. 2006 Nos. 359 and S.R. 2008 No. 112 and 286
 - (5) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No. 421 and S.R. 2005 Nos. 98 and 536
 - (6) S.R. 2008 No. 280
 - (7) 1954 c. 33 (N.I.)

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 are amended in accordance with paragraphs (2) to (7).

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

- (a) in the definition of “concessionary payment” for “the Order, the principal Act or the Child Benefit (Northern Ireland) Order 1975” substitute “the benefit Acts”;
- (b) omit the definition of “mobility allowance”;
- (c) in the definition of “mobility supplement” for “Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “Article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006⁽⁸⁾”;
- (d) after the definition of “voluntary organisation”⁽⁹⁾ insert—

““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003⁽¹⁰⁾;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”;

- (e) for the definition of “war widower’s pension”⁽¹¹⁾ substitute—

““war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

^{F1}(3)

(4) In regulations 42(4)(a)(i)⁽¹²⁾ (notional income) and 51(3)(a)(i)⁽¹³⁾ (notional capital) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”.

(5) In regulation 61(1) (interpretation) in sub-paragraph (e) of the definition of “access funds”⁽¹⁴⁾ for “National Assembly for Wales” substitute “Welsh Ministers”.

(6) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

⁽⁸⁾ S.I. 2006/606

⁽⁹⁾ The definition of “voluntary organisation” was inserted by regulation 2(2) of S.R. 1995 No. 86

⁽¹⁰⁾ 2003 c. 1; Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7)

⁽¹¹⁾ The definition of “war widower’s pension” was inserted by regulation 2(2) of S.R. 2002 No. 128 and amended by paragraph 12(2)(c) of S.R. 2005 No. 536 and regulation 3(2)(d) of S.R. 2007 No. 306

⁽¹²⁾ Paragraph (3) was substituted by regulation 9(a) of S.R. 1988 No. 318 and amended by regulation 2(2)(a) of S.R. 1998 No. 326; sub-paragraph (a)(i) was amended by regulation 5(2) of S.R. 1995 No. 410, regulation 2(2) of S.R. 1995 No. 481, regulation 2(3) of S.R. 2002 No. 128, paragraph 10(e)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195, regulation 2(6) of S.R. 2005 No. 98 and regulation 4(2) of S.R. 2005 No. 539

⁽¹³⁾ Paragraph (4) was substituted by regulation 11(a) of S.R. 1988 No. 318 and amended by regulation 3(2)(a) of S.R. 1998 No. 326; sub-paragraph (a)(i) was amended by regulation 9 of S.R. 1997 No. 22, regulation 2(4) of S.R. 2002 No. 128, paragraph 13(a)(i) and (ii) of Schedule 1 to S.R. 2003 No. 195, regulation 2(6) of S.R. 2005 No. 98 and regulation 4(3) of S.R. 2005 No. 539

⁽¹⁴⁾ The definition of “access funds” was inserted by regulation 2(2)(a) of S.R. 2000 No. 242 and sub-paragraph (e) was added by regulation 2(1)(a) of S.R. 2002 No. 222

- (a) in paragraph 5(15) omit “including any amount” to the end;
- (b) in paragraph 6(16) for “Any mobility allowance or the” substitute “The”;
- (c) for paragraph 7(b)(17) substitute—
 - “(b) income support;
 - (c) an income-based jobseeker’s allowance; or
 - (d) an income-based employment and support allowance.”;
- (d) in paragraph 16—
 - (i) in sub-paragraph (c)(18) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”, and
 - (ii) in sub-paragraph (cc)(19) at the end add “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (e) in paragraph 25(1)(20)—
 - (i) in head (b)(21) for “Secretary of State under section 51” substitute “Scottish Ministers under section 51A”, and
 - (ii) omit head (d)(22);
- (f) in paragraph 31(23) for “Part IV of the Order” substitute “Part 8 of the Contributions and Benefits Act”;
- (g) in paragraph 33 for “paragraph 2 of Schedule 6 to the Order” substitute “Part 10 of the Contributions and Benefits Act”;
- (h) omit paragraph 47(24);
- (i) for paragraphs 48(25) and 49 substitute—

“48.—(1) Any payment or repayment made under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(26) (entitlement to full remission and payment, entitlement to partial remission and payment, or repayment);

(2) Any payment or repayment made by the Department of Health, Social Services and Public Safety which is analogous to a payment or repayment mentioned in sub-paragraph (1).

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- (15) Paragraph 5 was amended by regulation 2(5)(a) of S.R. 1996 No. 449, regulation 3(2) of S.R. 2005 No. 98 and paragraph 1(5) of Schedule 2 to S.R. 2006 No. 407
 - (16) Paragraph 6 was amended by regulation 10(6)(a) of S.R. 1992 No. 6
 - (17) Sub-paragraph (b) was amended by regulation 12(14)(a) of S.R. 2008 No. 286
 - (18) Sub-paragraph (c) was amended by regulation 2(2) of S.R. 1995 No. 481 and Article 2(3) and paragraph 12(8)(a) of Schedule 3 to S.R. 2005 No.536
 - (19) Sub-paragraph (cc) was inserted by regulation 2(8)(a) of S.R. 2005 No. 98
 - (20) Sub-paragraph (1) was substituted by regulation 4 of S.R. 1989 No. 366
 - (21) Head (b) was amended by regulation 2(8)(a) of S.R.1998 No. 2 and 2(8)(b)(i) of S.R. 2005 No. 424
 - (22) Head (d) was substituted by regulation 3(2) of S.R. 1997 No. 331
 - (23) Paragraph 31 was substituted by regulation 5(9)(f) of S.R. 1992 No. 147
 - (24) Paragraph 47 was added by regulation 20(e) of S.R. 1990 No. 131
 - (25) Paragraphs 48 and 49 were added by regulation 8 of S.R. 1990 No. 346
 - (26) S.R. 2004 No. 91

49. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988(**27**) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;

(j) for paragraphs 52(**28**), 53(**29**) and 54(**30**) substitute—

“**52.** Any council tax benefit.

53.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

54. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

(k) for paragraph 56(1)(b)(**31**) substitute—

“(b) equal to the amount specified in Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006.”; and

(l) omit paragraph 57(**32**).

(7) In Schedule 10 (capital to be disregarded)—

(a) in paragraph 18(**33**) for “Part IV of the Order” substitute “Part 8 of the Contributions and Benefits Act”;

(b) in paragraph 19 for “section 26 of the Finance Act 1982 (deductions of tax from certain loan interest)” substitute “section 369 of the Income and Corporation Taxes Act 1988(**34**) (mortgage interest payable under deduction of tax)”;

(c) in paragraph 38(1)(**35**) for “3, 5, or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989” substitute “5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004”;

(d) for paragraph 39 substitute—

“**39.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security

(27) S.I. 1988/594 (N.I. 2); Article 13 was substituted by Article 3 of the Food Benefit Schemes (Northern Ireland) Order 2003 (S.I. 2003/3202 (N.I. 19))

(28) Paragraph 52 was added by regulation 4(7)(d) of S.R. 1993 No. 120 and amended by regulation 2(5)(b) of S.R. 1996 No. 449

(29) Paragraph 53 was added by regulation 4(9)(d) of S.R. 1994 No. 77 and amended by regulation 2(9)(b) of S.R. 1995 No. 367

(30) Paragraph 54 was added by regulation 2(10)(b) of S.R. 1994 No. 327 and amended by Article 2(3) and paragraph 12(8)(c) of Schedule 3 to S.R. 2005 No. 536

(31) Head (b) was amended by Article 2(3) and paragraph 12(8)(e)(ii) of Schedule 3 to S.R. 2005 No. 536

(32) Paragraph 57 was added by regulation 2(5)(c) of S.R. 1996 No. 449

(33) Paragraph 18 was substituted by regulation 14(a) of S.R. 1992 No. 147

(34) 1988 c. 1

(35) Paragraphs 38, 39 and 41 were added by regulation 9(d) of S.R. 1990 No. 346; paragraph 41 was amended by regulation 2(11)(a) of S.R. 1994 No. 327

(Northern Ireland) Order 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

(e) for paragraph 41 substitute—

“**41.** Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.”;

(f) omit paragraphs 45, 46 and 47**(36)**; and

(g) in paragraph 61**(37)** omit “within the meaning in section 25 of the Social Security Act 1989”.

Textual Amendments

F1 Reg. 2(3) revoked (26.10.2009) by [The Social Security \(Miscellaneous Amendments No. 4\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/338\)](#), regs. 1(1), **9(d)**

Commencement Information

I2 Reg. 2(1)-(5)(6)(a)(b)(d)(i)(e)-(l) (7) in operation at 5.1.2009, see [reg. 1\(1\)](#)

I3 [Reg. 2\(6\)\(c\) \(6\)\(d\)\(ii\)](#) comes into operation in accordance with reg. 1(2)

Amendment of the Jobseeker’s Allowance Regulations

3.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996 are amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “attendance allowance” insert—

““the benefit Acts” means the Order, the Benefits Act and Part 1 of the Welfare Reform Act (Northern Ireland) 2007**(38)**”;

(b) in the definition of “concessionary payment” for “under the Order or the Benefits Act” substitute “or tax credits under the benefit Acts or the Tax Credits Act 2002**(39)**”

(c) in the definition of “mobility supplement” for “Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “Article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006”;

(d) for the definition of “war disablement pension” substitute—

““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003”;

(e) after the definition of “war disablement pension” insert—

(36) Paragraphs 45, 46 and 47 were added by regulation 2(6) of [S.R. 1996 No. 449](#); paragraph 46 was amended by paragraph 1(6) of Schedule 2 to [S.R. 2006 No. 407](#)

(37) Paragraph 61 was added by regulation 2(a) of [S.R. 2001 No. 392](#) and amended by Article 2(3) and paragraph 12(9)(e) of Schedule 3 to [S.R. 2005 No. 536](#)

(38) [2007 c. 2 \(N.I.\)](#)

(39) [2002 c. 21](#)

““war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;” and

(f) for the definitions of “war widow’s pension” and “war widower’s pension” substitute—

““war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulations 11(3) (part-time students), 57(1) (interpretation of Part IV) in the definition of “training” and 75(1)(b)(40) (interpretation), in each place it occurs, for “Department of Economic Development” substitute “Department for Employment and Learning”.

(4) In regulations 105(10)(a)(i)(41) (notional income) and 113(3)(a)(i)(42) (notional capital) for “Order or under the Benefits Act a payment from the Armed Forces and Reserved Forces Compensation Scheme, a war disablement pension or war widow’s pension or war widower’s pension” substitute “benefit Acts, a payment from the Armed Forces and Reserved Forces Compensation Scheme, a war disablement pension, war widow’s pension or war widower’s pension or a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown”.

(5) In regulation 130 (interpretation) in the definition of “access funds”(43) in sub-paragraph (e) for “National Assembly of Wales” substitute “Welsh Ministers”.

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

(a) in paragraph 7 omit “, or any mobility allowance accrued under the repealed section 37A of the Social Security (Northern Ireland) Act 1975”;

(b) for paragraph 8(b)(44) substitute—

“(b) income support;

(c) an income-based jobseeker’s allowance; or

(d) an income-related employment and support allowance.”;

(c) for paragraph 17(45) substitute—

“17. Subject to paragraphs 38 and 39, £10 of any of the following namely—

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);

(b) a war widow’s pension or war widower’s pension;

(40) Regulation 75 was substituted by regulation 8 of S.R. 1997 No. 541 and paragraph (1)(b) was amended by regulation 8 of S.R. 1998 No. 198 and paragraph 32(a) and (b) of Schedule 2 to S.R. 2000 No. 350

(41) Paragraph (10) was amended by regulation 2(1)(a) of S.R. 1998 No. 326, sub-paragraph (a) was amended by regulation 10(c) (i) of Schedule 2 to S.R. 2003 No. 195 and head (i) was amended by regulation 4(3) of S.R. 2002 No. 128, paragraph 10(c) (ii) of Schedule 2 to S.R. 2003 No. 195 and regulation 2(7) of S.R. 2005 No. 98

(42) Paragraph (3) was amended by regulation 3(1)(a) of S.R. 1998 No. 326, sub-paragraph (a) was amended by regulation 13(a) (i) of Schedule 2 to S.R. 2003 No. 195 and head (i) was amended by regulation 4(4) of S.R. 2002 No. 128, paragraph 13(a) (ii) of Schedule 2 to S.R. 2003 No. 195 and regulation 2(7) of S.R. 2005 No. 98

(43) The definition of “access funds” was inserted by regulation 3(4)(a) of S.R. 2000 No. 242; sub-paragraph (e) was added by regulation 2(3)(b)(i) of S.R. 2002 No. 222

(44) Sub-paragraph (b) was amended by regulation 19(28)(a) of S.R. 2008 No. 286

(45) Paragraph 17 was amended by regulation 3(3) of S.R. 2000 No. 260, regulation 4(5)(a) of S.R. 2002 No. 128, regulation 2(11) of S.R. 2005 No. 98 and paragraph 23(12)(a) of Schedule 3 to S.R. 2005 No. 536

- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d);
 - (g) a pension paid to victims of the National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or the Republic of Austria;
 - (h) any widowed mother's allowance paid pursuant to section 37 of the Benefits Act;
 - (i) any widowed parent's allowance paid pursuant to section 39A of the Benefits Act.”;
- (d) in paragraph 26(1)—
- (i) in head (b)(46) for “Secretary of State under section 51” substitute “Scottish Ministers under section 51A”, and
 - (ii) omit head (d)(47);
- (e) omit paragraph 40;
- (f) in paragraph 43 for “Order or the Benefits Act” substitute “benefit Acts”;
- (g) omit paragraph 46;
- (h) in paragraph 47(1) for “3, 5, or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989” substitute “5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004”;
- (i) for paragraph 48 substitute—
- “48. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;
- (j) for paragraphs 52 and 53(48) substitute—
- “52.—(1) If the claimant is in receipt of any benefit under Part II, III or V of the Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(46) Head (b) was substituted by regulation 8(7)(a) of S.R. 1998 No. 2 and amended by regulation 4(8)(b)(i) of S.R. 2005 No. 424

(47) Head (d) was substituted by regulation 3(2)(e) of S.R. 1997 No. 331

(48) Paragraph 53 was amended by Article 2(3) and paragraph 23(12)(c) of Schedule 3 to S.R. 2005 No. 536

(2) If the claimant is in receipt of any pension or allowance under Part II or III of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(49), any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

53. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”; and

(k) for paragraph 55(1)(b)(50) substitute—

“(b) equal to the amount specified in Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006.”.

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

(a) in paragraph 12(1)(b)(51) for “a jobseeker’s allowance” substitute “an income-based jobseeker’s allowance”;

(b) in paragraph 34 for “Order or under the Benefits Act” substitute “benefit Acts”;

(c) in paragraph 36(1) for “3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989” substitute “5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004”;

(d) for paragraph 37 substitute—

“**37.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

(e) for paragraph 39 substitute—

“**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 6 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.”; and

(f) in paragraph 54(52) omit “within the meaning in section 25 of the Social Security Act 1989”.

Commencement Information

I4 Reg. 3(1)-(5) (6)(a)(d)-(i) (k) (7)(b)-(f) in operation at 5.1.2009, see [reg. 1\(1\)](#)

I5 [Reg. 3\(6\)\(b\)\(c\)\(j\)](#) (7)(a) comes into operation in accordance with reg. 1(2)

Amendment of the State Pension Credit Regulations

4.—(1) The State Pension Credit Regulations (Northern Ireland) 2003 are amended in accordance with paragraphs (2) to (6).

(49) [S.I. 2006/606](#)

(50) Head (b) was amended by Article 2(3) and paragraph 23(12)(e)(ii) of Schedule 3 to [S.R. 2005 No. 536](#)

(51) Head (b) was amended by paragraph 24(a) of Schedule 2 to [S.R. 2003 No. 195](#), regulation 4(3)(b) of [S.R. 2003 No. 338](#), regulation 4(16)(a) of [S.R. 2008 No. 112](#) and regulation 19(29)(a) of [S.R. 2008 No. 286](#)

(52) Paragraph 54 was added by regulation 2(c) of [S.R. 2001 No. 392](#) and amended by Article 2(3) and paragraph 23(13)(e) of Schedule 3 to [S.R. 2005 No. 536](#)

(2) In regulation 1(2) (interpretation) in the definition of “attendance allowance” for paragraph (f) substitute—

“(f) any payment based on a need for attendance which is paid as part of a war disablement pension, or any other such payment granted in respect of disablement which falls within regulation 15(5)(ac);”;

(3) In regulation 15(5) (income for the purposes of the Act)—

(a) for sub-paragraph (a) substitute—

“(a) a payment made under—

(i) Article 30 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006, in any case where Article 30(1)(b) applies, or

(ii) Article 12(8) of that Order, in any case where sub-paragraph (b) of that Article applies;”;

(b) in sub-paragraph (ab)(53) for “but only where the condition referred to in Article 23(2)(c) is met” substitute “in any case where Article 23(2)(c) applies”; and

(c) after sub-paragraph (ab) insert—

“(ac) any retired pay, pension or allowance granted in respect of disablement or any pension or allowance granted to a widow, widower or surviving civil partner in respect of a death due to service or war injury under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(54) where such payment does not fall within paragraph (a) of the definition of “war disablement pension” in section 17(1) of the State Pension Credit Act (Northern Ireland) 2002 or, in respect of any retired pay or pension granted in respect of disablement, where such payment does not fall within paragraph (b) of that definition;”.

(4) In Schedule 4 (amounts to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 1—

(i) after sub-paragraph (b) insert—

“(ba) unless sub-paragraph (a) or (b) applies, any payment described in regulation 15(5)(ac) (except insofar as such a payment falls to be disregarded under paragraph 2 or 3);”;

(ii) in sub-paragraph (c)(55) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;

(iii) in sub-paragraph (cc)(56) at the end add “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”, and

(53) Sub-paragraph (ab) was inserted by regulation 2(3) of S.R. 2005 No. 98

(54) 2003 c. 1; subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7)

(55) Sub-paragraph (c) was amended by Article 2(3) and paragraph 30(4)(a) of Schedule 3 to S.R. 2005 No. 536

(56) Sub-paragraph (cc) was inserted by regulation 2(8)(a) and (9)(c) of S.R. 2005 No. 98

- (iv) in sub-paragraph (d)(57) for “sub-paragraphs (a) to (c)” substitute “the preceding sub-paragraphs”;
- (b) in paragraph 3 for “Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “Article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006”;
- (c) for paragraph 4(58) substitute—
 - “4. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;
- (d) for paragraph 6(1)(b)(59) substitute—
 - “(b) equal to the amount specified in Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006.”;
- (e) in paragraph 12(60)—
 - (i) for “pension under Part IV of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006”, and
 - (ii) omit “spouse or civil”; and
- (f) omit paragraph 17(61).
- (5) In Schedule 5 (income from capital)—
 - (a) paragraph 14 shall be renumbered as paragraph 14(1) and at the end add—
 - “(2) In sub-paragraph (1), “war disablement pension” and “war widow’s or widower’s pension” include any payment described in regulation 15(5)(ac).”;
 - (b) in paragraph 17 after “18 to 20” insert “or 20B”;
 - (c) in paragraph 20(2)(i)(62) for “a war widow’s or widower’s pension” substitute “any other such amount described in regulation 15(5)(ac)”;
 - (d) after paragraph 20A(63) insert—
 - “20B. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 4 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.
- (6) In Schedule 6 (sums disregarded from claimant’s earnings) in paragraph 4(1)(a)(v) for “Article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “Article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006”.

Commencement Information

16 Reg. 4(1)(2) (3)(b)(c) (4)(a)(i)(ii) (4)(b)-(d)(f) (5)(a)(c) (6) in operation at 5.1.2009, see [reg. 1\(1\)](#)

(57) Sub-paragraph (d) was amended by regulation 2(8)(b) and (9)(c) of [S.R. 2005 No. 98](#)

(58) Paragraph 4 was amended by Article 2(3) and paragraph 30(4)(b) of Schedule 3 to [S.R. 2005 No. 536](#)

(59) Sub-paragraph (b) was amended by Article 2(3) and paragraph 30(4)(d)(ii) of Schedule 3 to [S.R. 2005 No. 536](#)

(60) Paragraph 12 was amended by Article 2(3) and paragraph 30(4)(e) of Schedule 3 to [S.R. 2005 No. 536](#)

(61) Paragraph 17 was added by regulation 2(10)(f) of [S.R. 2003 No. 421](#)

(62) Head (i) was amended by regulation 2(11)(e)(iii) of [S.R. 2003 No. 421](#)

(63) Paragraph 20A was substituted by regulation 2(11)(f) of [S.R. 2003 No. 421](#)

17 Reg. 4(3)(a) (4)(a)(iii)(iv) (e) (5)(b) (d) comes into operation in accordance with reg. 1(2)

Amendment of the Housing Benefit Regulations

5.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**64**) are amended in accordance with paragraphs (2) to (6).

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

(a) in the definition of “concessionary payment” for “under the Act” substitute “under the benefit Acts or the Tax Credits Act”; and

(b) for the definition of “war widower’s pension” substitute—

““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 25(11)(d)(vi) (treatment of child care charges) for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.

(4) In regulation 50(1) (interpretation) in the definition of “access funds” in sub-paragraph (e) for “National Assembly for Wales” substitute “Welsh Ministers”.

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

(a) in paragraph 15—

(i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884 or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”, and

(ii) in sub-paragraph (d) at the end add “and, if the amount of that payment has been abated by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, an amount of the pension payable under either of those schemes equal to the amount of that abatement”;

(b) in paragraph 26(1)—

(i) in head (c) for “section 51” substitute “section 51A”, and

(ii) omit head (d);

(c) omit paragraphs 40 and 45;

(d) in paragraph 46(1)(**65**) for “or 10” substitute “or 11”;

(e) for paragraph 47 substitute—

(64) S.R. 2006 No. 405; relevant amending Regulation is S.R. 2008 No. 179

(65) Sub-paragraph (1) was amended by regulation 3(10)(b) of S.R. 2008 No. 179

“47. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988(66) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”; and

(f) for paragraphs 54 and 55 substitute—

“54.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

55. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”.

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

(a) for paragraph 40 substitute—

“40. Any arrears of supplementary pension which is disregarded under paragraph 55 of Schedule 6 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.”;

(b) in paragraph 41(1)(67) for “or 10” substitute “or 11”;

(c) for paragraph 42 substitute—

“42. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988 (in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

(d) in paragraph 53 omit “within the meaning of section 25 of the Social Security Act 1989”.

Commencement Information

18 Reg. 5 in operation at 5.1.2009, see [reg. 1\(1\)](#)

(66) [S.I. 1988/594 \(N.I. 2\)](#); Article 13 was substituted by Article 3 of the Food Benefit Schemes (Northern Ireland) Order ([S.I. 2003/3202 \(N.I. 19\)](#))

(67) Sub-paragraph (1) was amended by regulation 3(11) of [S.R. 2008 No. 179](#)

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

6.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006⁽⁶⁸⁾ are amended in accordance with paragraphs (2) to (7).

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

(a) for the definition of “concessionary payment” substitute—

““concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act are charged”; and

(b) for the definition of “war widower’s pension” substitute—

““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003⁽⁶⁹⁾;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 22(1) (circumstances in which income of non-dependant is to be treated as claimant’s) for “income support or an income-based jobseeker’s allowance” substitute “a guarantee credit”.

(4) In regulation 27(1) (meaning of “income”)—

(a) in sub-paragraph (f) for “but only where the condition referred to in article 23(2)(c) is met” substitute “in any case where Article 23(2)(c) applies”; and

(b) for sub-paragraph (j) substitute—

“(j) a payment made—

(i) under Article 30 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006, in any case where Article 30(1) (b) applies, or

(ii) under Article 12 of that Order, in any case where Article 12(8)(b) applies;”.

(5) In regulation 29(11)(d)(vi) (treatment of child care charges) for “under a war pension scheme” substitute “paid as part of a war disablement pension or under”.

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

(a) in paragraph 1—

(i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay

⁽⁶⁸⁾ S.R. 2006 No. 406; relevant amending Regulation is S.R. 2007 No. 153

⁽⁶⁹⁾ 2003 c. 1; Sub-section (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7)

Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”, and

- (ii) in sub-paragraph (d) at the end add “and, if the amount of that payment has been abated by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, an amount of the pension payable under either of those schemes equal to the amount of that abatement”;
- (b) in paragraph 5 at the end add “and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;
- (c) in paragraph 14 for “pension under Part III” substitute “pension or allowance under Part 2 or 3” and omit “spouse or civil”;
- (d) in paragraph 22(70) after “satisfies” insert “any of”; and
- (e) omit paragraph 24.
- (7) In Schedule 7 (capital to be disregarded)—
 - (a) in paragraphs 15 and 21(2)(i) for “war disablement pension or a war widow’s or widower’s pension” substitute “war pension”;
 - (b) in paragraph 18 for “or 21” substitute “, 21 or 28A”; and
 - (c) after paragraph 28 insert—

“28A. Any arrears of supplementary pension which is disregarded under paragraph 5 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 6 or 7 of that Schedule.”.

Commencement Information

I9 Reg. 6 in operation at 5.1.2009, see [reg. 1\(1\)](#)

Amendment of the Housing Benefit (Consequential Provisions) Regulations

7. In Schedule 4 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006(71) (transitory modifications) omit paragraphs 2(4) to (6) and 3(2)(b) and (c).

Commencement Information

I10 Reg. 7 in operation at 5.1.2009, see [reg. 1\(1\)](#)

Amendment of the Employment and Support Allowance Regulations

8.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008 are amended in accordance with paragraphs (2) to (4).

- (2) In regulation 2(1) (interpretation)—
 - (a) in the definition of “concessionary payment” omit “either to the Northern Ireland National Insurance Fund or”;
 - (b) in the definition of “war disablement pension” for “retirement pay,” substitute “retired pay or”; and

(70) Paragraph 22 was amended by Article 20(9) of S.R. 2007 No. 153

(71) S.R. 2006 No. 407

- (c) in the definitions of “war widow’s pension” and “war widower’s pension” for “means a pension” substitute “means any pension or allowance”.
- (3) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 16(d) at the end add “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”; and
- (b) for paragraph 49 substitute—
- “**49.**—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.
- (2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(72), any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.
- (4) In Schedule 9 (capital to be disregarded) in paragraph 50 for “war pension within the meaning of section 25 of the Social Security Act 1989” substitute “war disablement pension, war widow’s pension or war widower’s pension”.

Commencement Information

- I11** Reg. 8(1)(2) (3)(b) (4) in operation at 5.1.2009, see [reg. 1\(1\)](#)
- I12** [Reg. 8\(3\)\(a\)](#) comes into operation in accordance with reg. 1(2)

Revocations

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

Commencement Information

- I13** Reg. 9 in operation at 5.1.2009, see [reg. 1\(1\)](#)

Sealed with the Official Seal of the Department for Social Development on 11th December 2008

(L.S.)

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

Changes to legislation: *There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 7) Regulations (Northern Ireland) 2008. (See end of Document for details)*

The Department of Finance and Personnel consents to regulations 5, 6 and 7.
Sealed with the Official Seal of the Department of Finance and Personnel on 12th December 2008

(L.S.)

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

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 7) Regulations (Northern Ireland) 2008.