
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 69

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments
No. 2) Regulations (Northern Ireland) 2010**

Made - - - - 8th March 2010

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 129(2), 131(1), 132(3) and (4), 132A(2) and (3), 133(2) (d), (f) and (i), 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), sections 5(1)(h) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(2), Articles 5(1)(f)(iii), 5A(1)(e)(ii), 6(5), 14(4)(a) to (c), 22B(4) and (6), and 36(2) of, and paragraphs 1(2)(b) and 8A(1) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(3) and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(4), and now vested in it(5), and sections 2(3)(b), 7(7) (a), 15(1)(f) and (6)(a) and (b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(6) and sections 4(2), 17(1) and (3)(a) and (b) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(7).

Regulations 8 and 9 are made with the consent of the Department of Finance and Personnel(8).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 8 and 9 should not be referred to it(9).

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- (1) 1992 c. 7; section 129(2) was amended by Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)); section 132A was inserted by paragraph 3 of Schedule 2 to the [State Pension Credit Act \(Northern Ireland\) 2002](#) (c. 14 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
 - (2) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S. I. 1999/671)
 - (3) S.I. 1995/2705 (N.I. 15); Article 5A was inserted by paragraph 5(2), and Article 22B was inserted by paragraph 14 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 N.I. 11); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 8A of Schedule 1 was inserted by paragraph 16(1) and (2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
 - (4) S.I. 1997/1183 (N.I. 12); Paragraph 8 of Schedule 1 applies to lump sum payments by virtue of Article 3A of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, which was inserted by section 8 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9)
 - (5) See Article 8(b) of S.R. 1999 No. 481
 - (6) 2002 c. 14 (N.I.)
 - (7) 2007 c. 2 (N.I.)
 - (8) 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 S.R. 1999 No. 481
 - (9) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2010 and, subject to paragraphs (2) to (4), shall come into operation on 6th April 2010.

(2) This regulation shall come into operation on 1st April 2010.

(3) The following provisions shall come into operation on 5th April 2010 in relation to any case where rent is payable at intervals of a week, or any multiple of whole weeks, and in any other case on 1st April 2010—

- (a) regulation 8(1) to (3), (5) to (7), (9) and (10); and
- (b) regulation 9(1) to (3) and (5).

(4) The following provisions shall come into operation on 13th April 2010—

- (a) regulation 2(9);
- (b) regulation 4(11); and
- (c) regulation 6(4) and (5).

(5) The Interpretation Act (Northern Ireland) 1954(10) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(11) are amended in accordance with paragraphs (2) to (10).

(2) In regulation 2(1) (interpretation) after the definition of “the Macfarlane (Special Payments) (No. 2) Trust”(12) insert—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”(13);
- (b) regulation 42(4ZA)(a)(14) (notional income);
- (c) regulation 48(10)(c)(15) (income treated as capital);
- (d) regulation 51(3A)(a)(16) (notional capital);

(10) 1954 c. 33 (N.I.)

(11) S.R. 1987 No. 459; relevant amending Rules are S.R. 1988 Nos. 146, 205 and 318, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201, S.R. 1993 Nos. 195 and 233, S.R. 1995 No. 367, S.R. 1996 No. 199, S.R. 1998 Nos. 2 and 326, S.R. 2000 No. 241, S.R. 2004 Nos. 213 and 389, S.R. 2005 Nos. 424, 536 and 550, S.R. 2006 No. 97 and S.R. 2007 Nos. 306 and 382 and S.R. 2008 No. 428

(12) The definition of “the MacFarlane (Special Payments) (No. 2) Trust” was inserted by regulation 4(2) of S.R. 1991 No. 204

(13) The definition of “qualifying person” was inserted by regulation 5(2)(b) of S.R. 1992 No. 201 and amended by regulation 2(a) of S.R. 2004 No. 213 and regulation 2(2)(b) of S.R. 2005 No. 550

(14) Regulation 42(4ZA) was inserted by regulation 2(2)(b) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(5)(a) of S.R. 2008 No. 428

(15) Sub-paragraph (c) was amended by regulation 4(3)(b) of S.R. 1990 No. 33, regulation 4(4) of S.R. 1991 No. 204, regulation 5(4) of S.R. 1992 No. 201, regulation 5(3)(b) of S.R. 1993 Nos. 195 and 233 and regulation 2(5)(b) of S.R. 2008 No. 428

(16) Paragraph (3A) was inserted by regulation 3(2)(b) and (3)(c) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(1) and 2(b) of S.R. 2004 No. 389, regulation 2(3) of S.R. 2005 No. 550 and regulation 2(5)(c) of S.R. 2008 No. 428

- (e) Schedule 3 (housing costs), paragraph 18(8)(b)(17);
- (f) Schedule 9 (sums to be disregarded in the calculation of income other than earnings), paragraph 21(2)(18) and paragraph 39(1)(19) and (7)(20); and
- (g) Schedule 10 (capital to be disregarded), paragraph 22(1)(21) and (7)(22),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 6(1)(c) (persons not treated as engaged in remunerative work) after “earnings” insert “and in this paragraph “volunteer” means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work;”.

(5) In regulation 13(2)(dd)(23) (circumstances in which persons in relevant education are to be entitled to income support) after “and their families)” insert “or Part II of the Children (Scotland) Act 1995 (promotion of children’s welfare by local authorities and by children’s hearings etc.)”.

(6) In regulation 42 in—

- (a) paragraph (2)(g)(24) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”;
- (b) paragraph (2ZA)(25) for “age of 60” substitute “qualifying age for state pension credit”; and
- (c) paragraph (2A)(26) for “aged not less than 60” substitute “who has attained the qualifying age for state pension credit”.

(7) In—

- (a) regulation 42(4ZA)(a);
- (b) regulation 48(10)(c);
- (c) regulation 51(3A)(a);
- (d) Schedule 3, paragraph 18(8)(b) where it first occurs;
- (e) Schedule 9, paragraph 39(1) to (5)(27); and
- (f) Schedule 10, paragraphs 22(1) to (5)(28) and 29(29),

(17) Sub-paragraph (b) was amended by regulation 2(5)(e) of S.R. 2008 No. 428

(18) Paragraph 21 was substituted by regulation 3(6)(d) of S.R. 1988 No. 146 and sub-paragraph (2) was amended by regulation 5(d) of S.R. 1988 No. 205, regulation 4(3)(e) of S.R. 1990 No. 33, regulation 4(7)(a) of S.R. 1991 No. 204, regulation 5(7)(a) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(a) of S.R. 1993 No. 233 and regulation 2(5)(f) of S.R. 2008 No. 428

(19) Paragraph 39(1) was substituted by regulation 4(7)(b) of S.R. 1991 No. 204 and amended by regulation 5(7)(b)(i) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(b)(i) of S.R. 1993 No. 233 and regulation 2(5)(f) of S.R. 2008 No. 428

(20) Sub-paragraph (7) was added by regulation 5(7)(b)(vi) of S.R. 1992 No. 201 and amended by regulation 2(3) and (4) of S.R. 2004 No. 389 and regulation 2(4) of S.R. 2005 No. 550

(21) Paragraph 22 was substituted by regulation 4(8)(a) of S.R. 1991 No. 204, sub-paragraph (1) was amended by regulation 5(8)(a)(i) of S.R. 1992 No. 201, regulation 5(5)(a) of S.R. 1993 No. 233, regulation 3(1) and (2)(b) of S.R. 2004 No. 213, regulation 2(5)(a)(i) of S.R. 2005 No. 550 and regulation 2(5)(g) of S.R. 2008 No. 428

(22) Sub-paragraph (7) was added by regulation 5(8)(a)(vi) of S.R. 1992 No. 201 and amended by regulation 3(4)(b) of S.R. 2004 No. 213 and regulation 2(5)(a)(ii) of S.R. 2005 No. 550

(23) Sub-paragraph (dd) was substituted by regulation 2(2)(a) of S.R. 1998 No. 2

(24) Paragraph (2)(g) was added by regulation 2(4)(a) of S.R. 1995 No. 367 and amended by regulation 2(3)(a) of S.R. 2005 No. 424, regulation 2(2)(a) of S.R. 2006 No. 97 and regulation 3(6)(a) of S.R. 2007 No. 306

(25) Paragraph (2ZA) was inserted by regulation 2(3)(b) of S.R. 2005 No. 424 and amended by regulation 2(2)(b) of S.R. 2006 No. 97 and regulation 3(6)(b) of S.R. 2007 No. 306

(26) Paragraph (2A) was substituted by regulation 3(6)(c) of S.R. 2007 No. 306

(27) Sub-paragraphs (2) to (5) were amended by regulation 5(7)(b) of S.R. 1992 No. 201 and paragraph 12(8)(b) of Schedule 3 to S.R. 2005 No. 536, sub-paragraphs (4) and (5) were also amended by regulation 3(5) and the Schedule to S.R.2000 No. 241

(28) Sub-paragraphs (2) to (5) were amended by regulation 5(8)(a) of S.R. 1992 No. 201 and paragraph 12(9)(b) of Schedule 3 to S.R. 2005 No. 536, sub-paragraphs (4) and (5) were also amended by regulation 3(5) and the Schedule to S.R.2000 No. 241

after “under” insert “or by”.

(8) In regulation 51 in paragraph (2)(da)(30) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(9) In Schedule 2 (applicable amounts) in paragraph 1(3)(a)(ii), paragraph 1(3)(e)(i), paragraph 1(3)(f)(i) and paragraph 1(3)(g)(i)(31) after “regulation 4ZA” insert “or income-related employment and support allowance”.

(10) In Schedule 10 in paragraph 29 after “the Fund” insert “, MFET Limited”.

Amendment of the Social Security (Claims and Payments) Regulations

3. In regulation 7 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(32) (evidence and information) in paragraph (4)(33) for “is aged not less than 60”, substitute “has attained the qualifying age”.

Amendment of the Jobseeker’s Allowance Regulations

4.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(34) are amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “maternity leave”(35) insert—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 1(2) in the definition of “qualifying person”(36);
- (b) regulation 105(10A)(a)(37) (notional income);
- (c) regulation 110(10)(c)(38) (income treated as capital);
- (d) regulation 113(3A)(a)(39) (notional capital);
- (e) Schedule 2 (housing costs), paragraph 17(8)(b)(40) (non-dependant deductions);
- (f) Schedule 6 (sums to be disregarded in the calculation of income other than earnings), paragraph 22(2)(41); and

(29) Paragraph 29 was added by regulation 25 of S.R. 1988 No. 318 and amended by regulation 4(4) of S.R. 1990 No. 33, regulation 5(8)(b) of S.R. 1992 No. 201, regulation 5(4) of S.R. 1993 No. 195, Article 2(3) of S.R. 2007 No. 382 and regulation 2(10) of S.R. 2008 No. 428

(30) Sub-paragraph (da) was inserted by regulation 2(5) of S.R. 2005 No. 424 and amended by regulation 2(3)(a) of S.R. 2006 No. 97

(31) Sub-paragraph (3) was substituted by paragraph 3 of Schedule 2 to S.R. 1996 No. 199

(32) S.R. 1987 No. 465; relevant amending Regulations are regulation 5(3) of S.R. 1995 No. 367, regulation 2(6)(b) of S.R. 1996 No. 354, regulation 5(b) of S.R. 2003 No. 191 and regulation 13(7) of S.R. 2008 No. 286

(33) Paragraph (4) was added by regulation 5(3) of S.R. 1995 No. 367

(34) S.R. 1996 No. 198; relevant amending Rules are S.R. 1998 No. 326, S.R. 2000 No. 350, S.R. 2002 Nos. 236 and 332, S.R. 2004 Nos. 213 and 389, S.R. 2005 Nos. 424, 536 and 550, S.R. 2006 No. 97, S.R. 2007 Nos. 306 and 396, S.R. 2008 No. 428

(35) The definition of “maternity leave” was amended by regulation 7(2)(b) of S.R. 2007 No. 396

(36) The definition of “qualifying person” was amended by regulation 2(a) of S.R. 2004 No. 213 and regulation 4(2)(b) of S.R. 2005 No. 550

(37) Paragraph (10A) was inserted by regulation 2(1)(b) of S.R. 1998 No. 326 and amended by regulation 4(5)(a) of S.R. 2008 No. 428

(38) Sub-paragraph (c) was amended by regulation 4(5)(b) of S.R. 2008 No. 428

(39) Paragraph (3A) was inserted by regulation 3(1)(b) of S.R. 1998 No. 326; sub-paragraph (a) was amended by regulation 2(1) and (c) of S.R. 2004 No. 389, regulation 4(3) of S.R. 2005 No. 550 and regulation 4(5)(c) of S.R. 2008 No. 428

(40) Head (b) was amended by regulation 4(5)(e) of S.R. 2008 No. 428

(41) Sub-paragraph (2) was amended by regulation 4(5)(f) of S.R. 2008 No. 428

(g) Schedule 7 (capital to be disregarded), paragraphs 27(1)(42) and 31(43), after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 3E(2)(i)(44) (entitlement of a member of a joint-claim couple to a jobseeker’s allowance without a claim being made jointly by the couple) for “7 weeks after the date on which the pregnancy ends where the expected week of confinement begins prior to 6th April 2003 or fifteen weeks after the date on which her pregnancy ends where the expected week of confinement begins on or after 6th April 2003”, substitute “28 weeks after the date on which the pregnancy ends”.

(5) In regulation 53(a) (persons treated as not engaged in remunerative work) after “earnings” insert “and in this paragraph “volunteer” means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work;”.

(6) In regulation 57(4)(a) (interpretation of Part IV), subject to paragraph (13), omit—

- (a) paragraph 10 (disabled students);
- (b) paragraph 12 (deaf students); and
- (c) paragraph 13 (blind persons).

(7) In regulation 105 in—

- (a) paragraph (2)(g)(45) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”;
- (b) paragraph (2B)(46) for “age of 60” substitute “qualifying age for state pension credit”;
- (c) paragraph (3)(47) for “aged not less than 60” substitute “ who has attained the qualifying age for state pension credit”.

(8) In—

- (a) regulation 105(10A)(a);
- (b) regulation 110(10)(c);
- (c) regulation 113(3A)(a);
- (d) Schedule 2, paragraph 17(8)(b) where it first occurs;
- (e) Schedule 6, paragraph 41(1) to (5)(48); and
- (f) Schedule 7, paragraphs 27(1) to (5)(49) and 31,

after “under” insert “or by”.

(9) In regulation 113(2)(da)(50) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(10) In regulation 130 (interpretation) after the definition of “grant income” insert—

(42) Paragraph 27(1) was amended by regulation 3(5) and (6)(b) of S.R. 2004 No. 213, regulation 4(5)(a) of S.R. 2005 No. 550 and regulation 4(5)(g) of S.R. 2008 No. 428

(43) Paragraph 31 was amended by regulation 4(5)(g) of S.R. 2008 No. 428

(44) Regulation 3E was inserted by regulation 2(2) of S.R. 2000 No. 350; paragraph (2) was amended by regulation 2(b)(i) of S.R. 2002 No. 236 and sub-paragraph (i) was amended by regulation 3 of S.R. 2002 No. 332

(45) Sub-paragraph (g) was amended by regulation 4(2)(a) of S.R. 2006 No. 97

(46) Paragraph (2B) was inserted by regulation 4(b) of S.R. 2005 No. 424

(47) Paragraph (3) was substituted by regulation 4(4)(a) of S.R. 2007 No. 306

(48) Sub-paragraph (1) was amended by regulation 4(5)(f) of S.R. 2008 No. 428 and sub-paragraphs (2) to (5) were amended by paragraph 23(12)(b) of Schedule 3 to S.R. 2005 No. 536

(49) Sub-paragraph (1) was amended by regulation 3(5) and (6)(b) of S.R. 2004 No. 213, regulation 4(5)(a) of S.R. 2005 No. 550 and regulation 4(5)(g) of S.R. 2008 No. 428 and sub-paragraphs (2) to (5) were amended by paragraph 23(13)(c) of Schedule 3 to S.R. 2005 No. 536

(50) Sub-paragraph (da) was inserted by regulation 4(5) of S.R. 2005 No. 424 and amended by regulation 4(3)(a) of S.R. 2006 No. 97

““last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;”.

(11) For regulation 146G(1)(51) (applicable amount in hardship cases for joint-claim couples), substitute—

“(1) The weekly applicable amount of the joint-claim couple to whom a joint-claim jobseeker’s allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to—

(a) 20% of the amount specified in paragraph 1(1)(e) of Schedule 1 in a case where a member of a joint-claim couple is—

(i) either pregnant or seriously ill, or

(ii) a member of a polygamous marriage and one of the members of that marriage is pregnant or seriously ill, or

(b) 40% of the amount specified in paragraph 1(1)(e) of Schedule 1 in all other cases.”

(12) In Schedule 6 in paragraph 41—

(a) in sub-paragraph (1) after “(“the Trusts”)”, and

(b) in sub-paragraph (7)(52) after “Skipton Fund”;

insert “, MFET Limited”.

(13) The provisions omitted by paragraph (6) continue to have effect in relation to a person referred to in regulation 2(2) of the Income Support (Prescribed Categories of Person) Regulations (Northern Ireland) 2009(53).

Amendment of the Social Security (Recovery of Benefits) Regulations

5. In regulation 2(2) of the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997(54) (exempted trusts and payments) after sub-paragraph (k)(55) add—

“(l) any payment made by MFET Limited, the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.”.

Amendment of the State Pension Credit Regulations

6.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(56) are amended in accordance with paragraphs (2) to (7).

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

(a) after the definition of “equity release scheme”(57) insert—

““foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security;”;

(b) after the definition of “the Macfarlane (Special Payments) (No. 2) Trust” insert—

(51) Regulation 146G(1) was inserted by regulation 2(3) of S.R. 2000 No. 350

(52) Sub-paragraph (7) was added by regulation 2(5) of S.R. 2004 No. 389 and amended by regulation 4(4) of S.R. 2005 No. 550

(53) S.R. 2009 No.418

(54) S.R. 1997 No. 429

(55) Sub-paragraph (k) was added by regulation 5 of S.R. 2005 No. 550

(56) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2004 Nos. 213 and 394, S.R. 2005 Nos. 536 and 550, S.R. 2008 No. 428

(57) The definition of “equity release scheme” was inserted by regulation 6(2) of S.R. 2004 No. 394

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.”.

(3) In—

- (a) regulation 1(2) in the definition of “qualifying person”(58);
- (b) Schedule 2 (housing costs), paragraph 14(8)(b)(59); and
- (c) Schedule 5 (income from capital), paragraph 15(1)(60) and (7)(61),

after “the Eileen Trust” insert “, MFET Limited”.

(4) The provisions of regulation 11 (retirement provision in assessed income period) become paragraph (1) of that regulation, and after that paragraph (as renumbered) add—

“(2) For the purposes of section 7(6) of the Act, a foreign state retirement pension is to be treated as a benefit under the Contributions and Benefits Act.”.

(5) For regulation 15(2) (income for the purposes of the Act), substitute—

“(2) For the purposes of section 15(1)(f) of the Act, income includes—

- (a) all foreign social security benefits which are similar to the social security benefits prescribed under paragraph (1), and
- (b) any foreign state retirement pension.”.

(6) In regulation 18(2) (notional income) for “aged not less than 60” substitute “who has attained the qualifying age”.

(7) In Schedule 5 (income from capital) in paragraph 15(1) to (5)(62) after “under” insert “or by”.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations

7. In regulation 10(2) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(63) (deductions from an award of a funeral payment)—

(a) in paragraph (2)—

- (i) after “under” insert “or by”;
- (ii) omit the “or” at the end of sub-paragraph (g)(64), and
- (iii) after sub-paragraph (h) add—

“or

(i) MFET Limited.”; and

(b) in paragraph (3)(65) after “Eileen Trust” insert “, MFET Limited”.

(58) The definition of “qualifying person” was amended by regulation 2 of S.R. 2004 No. 213 and regulation 6(2)(b) of S.R. 2005 No. 550

(59) Sub-paragraph (8)(b) was amended by regulation 5(3)(c) of S.R. 2008 No. 428

(60) Sub-paragraph (1) was amended by regulation 3(1) and (2)(c) of S.R. 2004 No. 213, regulation 6(3)(a)(i) of S.R. 2005 No. 550 and regulation 5(4) of S.R. 2008 No. 428

(61) Sub-paragraph (7) was amended by regulation 3(4)(c) of S.R. 2004 No. 213 and regulation 6(3)(a)(ii) of S.R. 2005 No. 550

(62) Sub-paragraphs (2) to (5) were amended by paragraph 30(5)(e) of Schedule 3 to S.R. 2005 No. 536

(63) S.R. 2005 No. 506; relevant amending Regulation is S.R. 2005 No. 550

(64) Sub-paragraph (g) was amended and sub-paragraph (h) was inserted by regulation 7(a)(ii) of S.R. 2005 No. 550

(65) Paragraph (3) was amended by regulation 7(b) of S.R. 2005 No. 550

Amendment of the Housing Benefit Regulations

8.—(1) The Housing Benefit Regulations (Northern Ireland) 2006⁽⁶⁶⁾ are amended in accordance with paragraphs (2) to (10).

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

(a) after the definition of “maximum rent (LHA)”⁽⁶⁷⁾ insert—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;” and

(b) after the definition of “the Skipton Fund” insert—

““special account” means an account as defined for the purposes of Chapter IVA of Part VIII of the Jobseeker’s Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”;
- (b) regulation 39(7)(a)⁽⁶⁸⁾ (notional income);
- (c) regulation 43(6)⁽⁶⁹⁾ (income treated as capital);
- (d) regulation 46(4)(a)⁽⁷⁰⁾ (notional capital);
- (e) regulation 72(9)(b)⁽⁷¹⁾ (non-dependant deductions);
- (f) regulation 82(4)(a)(ii) (evidence and information);
- (g) Schedule 6 (sums to be disregarded in the calculation of income other than earnings), paragraph 37(1)⁽⁷²⁾ and (7); and
- (h) Schedule 7 (capital to be disregarded), paragraph 25(1)⁽⁷³⁾ and (7),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 39(2)(c)⁽⁷⁴⁾ for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 39(7)(a);
- (b) regulation 43(6);
- (c) regulation 46(4)(a);
- (d) regulation 72(9)(b) where it first occurs;
- (e) regulation 82(4)(a)(ii);
- (f) Schedule 6, paragraph 37(1) to (5); and
- (g) Schedule 7, paragraphs 25(1) to (5) and 35⁽⁷⁵⁾,

⁽⁶⁶⁾ S.R. 2006 No. 405; relevant amending Regulations are S.R. 2007 Nos. 306 and 382, S.R. 2008 Nos. 101 and 428 and S.R. 2009 No. 92

⁽⁶⁷⁾ The definition of “maximum rent (LHA)” was inserted by regulation 2(2)(f) of S.R. 2008 No. 101

⁽⁶⁸⁾ Regulation 39(7)(a) was amended by regulation 6(3)(a) of S.R. 2008 No. 428

⁽⁶⁹⁾ Regulation 43(6) was amended by regulation 6(3)(b) of S.R. 2008 No. 428

⁽⁷⁰⁾ Regulation 46(4)(a) was amended by regulation 6(3)(c) of S.R. 2008 No. 428

⁽⁷¹⁾ Regulation 72(9)(b) was amended by regulation 6(3)(d) of S.R. 2008 No. 428

⁽⁷²⁾ Paragraph 37(1) was amended by regulation 6(3)(f) of S.R. 2008 No. 428

⁽⁷³⁾ Paragraph 25(1) was amended by regulation 6(3)(g) of S.R. 2008 No. 428

⁽⁷⁴⁾ Regulation 39(2)(c) was amended by regulation 5(4)(a) of S.R. 2007 No. 306

⁽⁷⁵⁾ Paragraph 35 was amended by Article 7(3) of S.R. 2007 No. 382 and regulation 6(7)(a) of S.R. 2008 No. 428

after “under” insert “or by”.

(6) In regulation 43(7) omit “(as defined for the purposes of Chapter IVA of Part VIII of the Jobseeker’s Allowance Regulations)”.

(7) In regulation 53(2A)(76) (full-time students to be treated as not liable to make payments in respect of a dwelling) after “begun” insert “, or been enrolled or accepted onto”.

(8) In regulation 82(5)(77) for “is aged not less than 60” substitute “has attained the qualifying age for state pension credit”.

(9) In Schedule 6—

(a) in paragraph 13(1)(a) for “or severe disablement allowance” substitute “, severe disablement allowance or employment and support allowance”; and

(b) in paragraph 60(2) omit “as defined for the purposes of Chapter IVA of Part VIII of the Jobseeker’s Allowance Regulations”.

(10) In Schedule 7 in paragraph 35 after “the Fund” insert “, MFET Limited”.

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

9.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(78) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation) after the definition of “maximum rent (LHA)”(79) insert—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

(a) regulation 2(1) in the definition of “qualifying person”;

(b) regulation 53(10)(b)(80) (non-dependant deductions);

(c) regulation 63(4)(a)(ii) (evidence and information); and

(d) Schedule 7 (capital to be disregarded), paragraph 16(1)(a),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 39(4)(81) (notional income) for “aged not less than 60” substitute “who has attained the qualifying age for state pension credit”.

(5) In—

(a) regulation 53(10)(b) where it first occurs;

(b) regulation 63(4)(a)(ii); and

(c) Schedule 7, paragraph 16(1) to (5)(82),

after “under” insert “or by”.

(76) Paragraph (2A) was inserted by regulation 6(6)(b) of S.R. 2009 No. 92

(77) Paragraph (5) was amended by regulation 5(6)(a) and (b) of S.R. 2007 No. 306

(78) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2007 No. 306 and S.R. 2008 Nos. 102 and 428

(79) The definition of “maximum rent (LHA)” was inserted by regulation 2(2)(f) of S.R. 2008 No. 102

(80) Regulation 53(10)(b) was amended by regulation 7(3)(b) of S.R. 2008 No. 428

(81) Paragraph (4) was substituted by regulation 6(4)(a) of S.R. 2007 No. 306

(82) Paragraph 16(1) was amended by regulation 7(4)(b) of S.R. 2008 No. 428

(6) In regulation 63(5)(**83**) for “is aged not less than 60” substitute “has attained the qualifying age for state pension credit”.

Amendment of the Employment and Support Allowance Regulations

10.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(**84**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation) after the definition of “the Mental Health Order” insert the following definition—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”;
- (b) regulation 107(5)(a) (notional income-income due to be paid or income paid to or in respect of a third party);
- (c) regulation 112(8) (income treated as capital);
- (d) regulation 115(5)(a) (notional capital);
- (e) Schedule 6 (housing costs), paragraph 19(8)(b);
- (f) Schedule 8 (sums to be disregarded in the calculation of income other than earnings), paragraphs 21(2) and 40(1) and (7); and
- (g) Schedule 9 (capital to be disregarded), paragraphs 27(1) and (7) and 31,

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 106 (notional income-deprivation and income on application) in—

- (a) paragraph (2)(g) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”;
- (b) paragraph (3) for “age of 60”, substitute “qualifying age for state pension credit”; and
- (c) paragraph (4) for “aged not less than 60” substitute “who has attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 107(5)(a);
- (b) regulation 112(8);
- (c) regulation 115(5)(a);
- (d) Schedule 6, paragraph 19(8)(b) where it first occurs;
- (e) Schedule 8, paragraph 40(1) to (5); and
- (f) Schedule 9, paragraph 27(1) to (5),

after “under” insert “or by”.

(6) In regulation 115(2)(e) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(**83**) Paragraph (5) was amended by regulation 6(5)(a) and (b) of S.R. 2007 No. 306

(**84**) S.R. 2008 No. 280

Amendment of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations

11. In regulation 7(2) of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008(**85**) (exempted trusts and payments) after sub-paragraph (h) add—

- “(i) any payment made from MFET Limited, the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.”.

Revocation

12. Regulation 3 of the Income Support (General) and Jobseeker’s Allowance (Amendment No. 2) Regulations (Northern Ireland) 2002(**86**) is hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 8th March 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social
Development

The Department of Finance and Personnel consents to regulations 8 and 9.

Sealed with the Official Seal of the Department of Finance and Personnel on 9th March 2010

(L.S.)

Jack Layberry
A senior officer of the Department of Finance
and Personnel

(85) S.R. 2008 No. 355

(86) S.R. 2002 No. 332

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

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

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

the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997 (“the Social Security (Recovery of Benefits) Regulations”);

the State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit Regulations”);

the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005;

the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”);

the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit SPC Regulations”);

the Employment and Support Allowance Regulations (Northern Ireland) 2008, (“the Employment and Support Allowance Regulations”); and

the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008,

to introduce disregards or exemptions in respect of payments by “MFET Limited”. MFET Limited is a company limited by guarantee (number 7121661), established and funded by the Secretary of State, for the benefit of persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.

Regulations 2 to 4 and 6, 8, 9 and 10 amend the Income Support Regulations, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987; the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations, the Housing Benefit (SPC) Regulations and the Employment and Support Allowance Regulations to change references from “age 60” to “the qualifying age” or “the qualifying age for state pension credit” when considering notional income or notional capital, and in relation to the supply of information on income and capital.

Regulation 2 amends the Income Support Regulations to:

provide that where the claimant has a partner aged under 18 who is sick, and the partner claims employment and support allowance rather than income support for their period of sickness, the couple will be eligible for the higher rate; and

include access to income support for certain young people coming to live in Northern Ireland who have ceased to live in accommodation provided by local authorities in Scotland.

Regulations 2 and 4 amend the Income Support Regulations and the Jobseeker’s Allowance Regulations to introduce a definition of volunteer.

Regulation 4 amends the Jobseeker’s Allowance Regulations to:

amend the period in which a member of a joint-claim couple will be entitled to jobseeker's allowance without having to make a joint claim because she has recently given birth, to be up to 28 weeks after the birth of the child;

remove references to paragraphs as a consequence of recent changes made to the Income Support Regulations, concerning persons eligible to claim income support rather than Jobseeker's Allowance;

insert an interpretation for "last day of the course" for students; and

correct a small drafting error in provisions relating to hardship cases for joint-claim couples.

Regulation 6 amends the State Pension Credit Regulations to provide for foreign state retirement pensions to be treated in the same way as foreign social security benefits.

Regulation 8 amends the Housing Benefit Regulations to—

extend the coverage of the second chance learning provision to also include young people under 21, where they were enrolled or accepted onto a course before reaching the age of 19. Second chance learning provisions refer to educational courses that do not lead to a Higher National Certificate or higher qualification, or equivalent qualifications, and

bring the treatment of employment and support allowance payments to those claimants who are receiving assistance under the self-employment route, as defined in those Regulations, and training allowance paid as a substitute for employment and support allowance payments, in line with the treatment of other social security benefits.

Regulation 12 makes a consequential revocation.

In so far as these Regulations are required, for the purposes of regulations 8 and 9, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, 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, that Act, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.