

**2010 No. 81**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments No. 3)  
Regulations (Northern Ireland) 2010**

*Made* - - - - *10th 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 70(8) and 171(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(b), (j), (l), (m) and (q), 13A(2)(b) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(b) and Articles 11(6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(c), and now vested in it(d).

In accordance with section 13A(2) of the Social Security Administration (Northern Ireland) Act 1992 it has consulted with such organisations representing qualifying lenders likely to be affected by regulation 3(7) as it considers appropriate.

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2010 and shall come into operation—

- (a) for the purposes of this regulation and regulation 3(1) and (7), on 1st April 2010;
- (b) for the purposes of regulations 2 and 5, on 12th April 2010; and
- (c) for all other purposes, on 6th April 2010, immediately after the coming into operation of the Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2009(e).

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(a) 1992 c. 7; section 70 was amended by Articles 2 and 3 of S.R. 2002 No. 321 and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9)) and amended by paragraph 23 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), paragraph 9 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), Article 18 of S.I. 2002/1555, paragraph 109 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 4(5) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and 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 No. 671)

(c) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002

(d) See Article 8(b) of S.R. 1999 No. 481

(e) S.R. 2009 No. 409

## **Amendment of the Social Security (Invalid Care Allowance) Regulations**

2. In regulation 8(1) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(a) (circumstances in which a person is or is not to be treated as gainfully employed) for “£95·00” substitute “£100”.

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

3.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 6(22)(c) (date of claim) in paragraph (c) of the definition of “qualifying benefit” for “regulation 4(1)(a) or 6(1)(a) of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987” substitute “regulation 5(1)(a) or 7(4)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(d)”.

(3) In regulation 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—

(a) in paragraph (2D)(e) for “Where a retirement pension is paid in arrears under regulation 22C and the award” substitute “Where an award of retirement pension”;

(b) in paragraph (2E) after “Except in a case where” insert “paragraph (2F) or”;

(c) after paragraph (2E) insert—

“(2F) Except in a case where regulation 22D(2)(f) applies, where a retirement pension is paid in arrears under regulation 22C and a change in the rate of that benefit takes effect under an order made under section 132 or 132A of the Administration Act(g) (annual up-rating of benefits, basic pension etc. and standard minimum guarantee) the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect on the first day of the benefit week next following.”.

(4) In regulation 16A(h) (date of entitlement under an award of state pension credit for the purpose of payability and effective date of change of rate) for paragraph (4) substitute—

“(4) For the purpose of this regulation “benefit week” means—

(a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant’s case, that benefit is payable;

(b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant’s case, that benefit is payable.”.

(5) In regulation 22 (long term benefits)—

(a) in paragraph (1A)(i) for “Disability” substitute “Subject to paragraph (1B), disability”;

and

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- (a) S.R. 1976 No. 99; regulation 8(1) was amended by regulation 2(7)(a) of S.R. 1996 No. 521, regulation 2(b) of S.R. 2001 No. 117, paragraph 1(b) of the Schedule to S.R. 2002 No. 323 and regulation 2 of S.R. 2007 No. 396
- (b) S.R. 1987 No. 465; relevant amending Rules are S.R. 1988 Nos. 67 and 141, S.R. 1992 No. 271, S.R. 1997 No. 156, S.R. 1999 No. 472 (C. 36), S.R. 2000 No. 215, S.R. 2002 Nos. 67, 297 and 323, S.R. 2003 No. 191, S.R. 2008 Nos. 112 and 286 and S.R. 2009 Nos. 92 and 409
- (c) Paragraph (22) was added by regulation 3(4)(e) of S.R. 1997 No. 156 and substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and the definition of “qualifying benefit” was amended by regulation 2(2)(f)(ii) of S.R. 2002 No. 67 and paragraph 2(a) of the Schedule to S.R. 2002 No. 323
- (d) S.R. 2005 No. 506; regulations 5(1)(a) and 7(4)(a) were amended respectively by regulation 34(3) and (4) of S.R. 2008 No. 286
- (e) Paragraphs (2D) and (2E) are inserted by regulation 2(3)(b) of S.R. 2009 No. 409
- (f) Regulations 22C and 22D are inserted by regulation 2(5) of S.R. 2009 No. 409
- (g) Section 132 was amended by paragraph 41 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49) and paragraph 9 of Schedule 4 to the Tax Credits Act 2002 and section 132A was inserted by section 5(1) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))
- (h) Regulation 16A was inserted by regulation 7(2) of S.R. 2003 No. 191 and amended by regulation 13(12) of S.R. 2008 No. 286
- (i) Paragraph (1A) was inserted by regulation 2(3) of S.R. 2002 No. 297

(b) after paragraph (1A) insert—

“(1B) The Department may, in any particular case or class of case, arrange that attendance allowance or disability living allowance shall be paid at such other intervals not exceeding four weeks as may be specified.”

(6) In paragraph 5 of Schedule 8A(a) (deductions from benefits and direct payment to third parties)—

(a) in sub-paragraph (1)(b) at the end add “or is resident in premises provided and maintained by virtue of Article 4(2) of the Probation Board (Northern Ireland) Order 1982(b)”;

(b) after sub-paragraph (1A)(c) insert—

“(1B) For the purposes of sub-paragraphs (1) and (1A) references to “rent” include charges incurred in respect of accommodation in premises provided and maintained by virtue of Article 4(2) of the Probation Board (Northern Ireland) Order 1982.”; and

(c) in sub-paragraph (5)(d) after “landlord” insert “or the person or body to whom charges are payable in respect of the residence of the beneficiary or the beneficiary’s partner in premises provided and maintained by virtue of Article 4(2) of the Probation Board (Northern Ireland) Order 1982”.

(7) In paragraph 6 of Schedule 8B(e) (deductions of mortgage interest from benefit and payment to qualifying lenders) for “£0·55” substitute “£0·45”.

#### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations**

4.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(f) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 7 (date from which a decision superseded under Article 11 takes effect) after paragraph (30)(g) insert—

“(30A) Where a decision is superseded in accordance with regulation 6(2)(a)(ii) and the relevant change of circumstances is the coming into operation of a change in the legislation in relation to a relevant benefit, the decision under Article 11 shall take effect from the date on which that change in the legislation takes effect.”.

(3) In regulation 8(3)(h) (effective date for late notifications of change of circumstances) for sub-paragraph (b) substitute—

“(b) be made—

(i) within 13 months of the date the change occurred; or

(ii) for the purposes of regulation 7(9)(b)(i), within 13 months of the date on which the claimant satisfied the conditions of entitlement to the particular rate of benefit.”.

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(a) Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67; relevant amending Rules are S.R. 1988 No. 141, S.R. 1999 No. 472 (C. 36) and S.R. 2008 No. 112

(b) S.I. 1982/713 (N.I. 10)

(c) Sub-paragraph (1A) was inserted by regulation 3(b) of S.R. 2008 No. 112

(d) Sub-paragraph (5) was amended by regulation 11(b) of S.R. 1988 No. 141, Article 9(2) of S.R. 1999 No. 472 (C. 36) and regulation 3(c) of S.R. 2008 No. 112

(e) Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271 and paragraph 6 was amended by regulation 14(2)(h) of S.R. 2003 No. 191 and regulation 3 of S.R. 2009 No. 92

(f) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2000 No. 3, S.R. 2003 Nos. 191 and 224, S.R. 2006 No. 168 and S.R. 2008 No. 417

(g) Paragraph (30) was added by regulation 3(6)(e) S.R. 2003 No. 224

(h) Regulation 8 was amended by regulation 2(3) of S.R. 2000 No. 3

(i) Paragraph (9) was substituted by regulation 2(2) of S.R. 2000 No. 3 and sub-paragraph (b) was amended by regulation 3(4)(e) of S.R. 2008 No. 417

(4) In Schedule 2B(a) (date on which change of circumstances takes effect where a claimant is entitled to state pension credit)—

- (a) in paragraph 7 for “Where” substitute “Subject to paragraphs 9 and 10, where”; and
- (b) after paragraph 8 add—

“9. Where state pension credit is paid in arrears and the relevant change of circumstances results in the award of that benefit being terminated, the superseding decision shall take effect on the first day of the benefit week next following the benefit week in which that change occurs or is expected to occur.

10. Where state pension credit is paid in advance and the relevant change of circumstances is the death of the claimant, the superseding decision shall take effect on the first day of the benefit week next following the date of death.

11. In this Schedule “benefit week” means—

- (a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant’s case, that benefit is payable;
- (b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant’s case, that benefit is payable.”.

### **Revocations**

5. Regulation 2 of the Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2007(b) and regulation 3 of the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009(c) are revoked.

Sealed with the Official Seal of the Department for Social Development on 10th March 2010

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social Development

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(a) Schedule 2B was inserted by regulation 22 of S.R. 2003 No. 191 and paragraphs 7 and 8 were added by regulation 4(5) of S.R. 2006 No. 168  
(b) S.R. 2007 No. 396  
(c) S.R. 2009 No. 92

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 (“the Invalid Care Allowance Regulations”), the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”).

Regulation 2 amends the Invalid Care Allowance Regulations to increase, from £95 to £100, the amount of weekly earnings a person can receive before being treated as gainfully employed for the purposes of entitlement to carer’s allowance.

Regulation 3 amends the Claims and Payments Regulations to update references to certain social fund benefits; to make provision in relation to death and a change in rate for the purposes of retirement pension; to provide for attendance allowance or disability living allowance to be paid at specified intervals not exceeding 4 weeks; to include arrears of service charges for certain premises provided and maintained by virtue of Article 4(2) of the Probation Board (Northern Ireland) Order 1982 in payments that may be made to third parties; and to reduce, from £0.55 to £0.45, the fee which qualifying lenders pay for the purpose of defraying administrative expenses incurred by the Department for Social Development in making payments in respect of mortgage interest direct to those lenders.

Regulation 4 amends the Decisions and Appeals Regulations to make provision in relation to the supersession of decisions where legislation is due to come into operation; the effective date for late notification of change of circumstances in relation to attendance allowance and disability living allowance; and the date on which entitlement to state pension credit terminates on the death of the claimant.

Regulation 5 makes consequential revocations.

These Regulations 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 Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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