

2013 No. 167

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Croatia) (Amendment) Regulations
(Northern Ireland) 2013**

Made - - - - *14th June 2013*

Coming into operation - *1st July 2013*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 131(1) and (2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 6(5) and (12) and 36(2) of, and paragraph 11 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(b), section 115(3), (4) and (8) of the Immigration and Asylum Act 1999(c), and now vested in it(d), sections 1(5)(a) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002(e) and sections 4(3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(f).

Regulations 5 and 6 are made with the consent of the Department of Finance and Personnel(g).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 5 and 6 should not be referred to it(h).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Croatia) (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 1st July 2013.

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

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- (a) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(b) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(c) 1999 c. 33
(d) See Article 8(b) of S.R. 1999 No. 481
(e) 2002 c. 14 (N.I.)
(f) 2007 c. 2 (N.I.)
(g) 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
(h) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(i) 1954 c. 33 (N.I.)

Amendment of the Income Support (General) Regulations

2. In regulation 21AA(4) of the Income Support (General) Regulations (Northern Ireland) 1987(a) (special cases: supplemental—persons from abroad), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006(b) pursuant to—
- (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006(c) (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013(d) (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

Amendment of the Jobseeker’s Allowance Regulations

3. In regulation 85A(4) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(e) (special cases: supplemental – persons from abroad), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
- (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

Amendment of the State Pension Credit Regulations

4. In regulation 2(4) of the State Pension Credit Regulations (Northern Ireland) 2003(f) (persons not in Northern Ireland), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
- (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

(a) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and paragraph (4)(f) was substituted by regulation 2 of S.R. 2006 No. 523 and amended by regulation 7(3) of S.R. 2011 No. 357

(b) S.I. 2006/1003

(c) S.I. 2006/3317

(d) S.I. 2013/1460

(e) S.R. 1996 No. 198; regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and paragraph (4)(f) was substituted by regulation 3 of S.R. 2006 No. 523 and amended by regulation 10(5) of S.R. 2011 No. 357

(f) S.R. 2003 No. 28; regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178 and paragraph (4)(f) was substituted by regulation 4 of S.R. 2006 No. 523 and amended by regulation 14(3) of S.R. 2011 No. 357

Amendment of the Housing Benefit Regulations

5. In regulation 10(5) of the Housing Benefit Regulations (Northern Ireland) 2006(a) (persons from abroad), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
 - (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

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

6. In regulation 10(5) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(b) (persons from abroad), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
 - (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

Amendment of the Employment and Support Allowance Regulations

7. In regulation 70(4) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(c) (special cases: supplemental – persons from abroad), for sub-paragraph (f) substitute—

- “(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
 - (i) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”), or
 - (ii) regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);”.

(a) S.R. 2006 No. 405; paragraph (5)(f) of regulation 10 was substituted by regulation 5 of S.R. 2006 No. 523 and amended by regulation 19(3) of S.R. 2011 No. 357

(b) S.R. 2006 No. 406; paragraph (5)(f) of regulation 10 was substituted by regulation 6 of S.R. 2006 No. 523 and amended by regulation 20(3) of S.R. 2011 No. 357

(c) S.R. 2008 No. 280; paragraph (4)(f) of regulation 70 was amended by regulation 21(7) of S.R. 2011 No. 357

Amendment consequential upon Croatia's Accession to the European Union

8. In paragraph 1 of Part II of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000(a), after “on 17th March 1993” add “as modified or supplemented from time to time.”

Revocations

9. The Social Security (Bulgaria and Romania) (Amendment) Regulations (Northern Ireland) 2006(b) and regulations 7(3), 10(5), 14(3), 19(3), 20(3) and 21(7) of the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2011(c) are revoked.

Sealed with the Official Seal of the Department for Social Development on 14th June 2013

(L.S.)

Stephen McMurray
A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulations 5 and 6.

Sealed with the Official Seal of the Department of Finance and Personnel on 14th June 2013

(L.S.)

John McKibbin
A senior officer of the Department of Finance and Personnel

(a) S.R. 2000 No.71
(b) S.R. 2006 No. 523
(c) S.R. 2011 No. 357

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 ("the Income-related Benefit Regulations") in consequence of the accession of Croatia to the European Union on 1st July 2013.

The Income-related Benefit Regulations provide that a claimant is ineligible for benefit where he or she is a "person from abroad" or, in the case of state pension credit, a "person not in Northern Ireland". A person is a person from abroad or a person not in Northern Ireland if he or she is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland. No person shall be treated as habitually resident without a relevant right to reside in the place where he or she is habitually resident. However, certain categories of persons are exempt from this habitual residence test.

These Regulations insert a new category of persons who are exempt from the habitual residence test, namely nationals of Croatia who are subject to the worker authorisation scheme established by the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 and who are treated as workers pursuant to those Regulations. This adds to the exemption category, inserted on 1st January 2007, for nationals of Bulgaria and Romania who are subject to the worker authorisation scheme and who are treated as workers pursuant to the Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/ 3317).

Regulation 8 amends paragraph 1 of Part II of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 in order to update the reference to the Agreement on the European Economic Area.

Regulation 9 makes consequential revocations.

In so far as these Regulations are required, for the purposes of regulations 5 and 6, 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.

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