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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 1**

**The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017**

**Amendments to the State Pension Credit Regulations**

**4.—(1)** The State Pension Credit Regulations (Northern Ireland) 2003<sup>(1)</sup> are amended in accordance with paragraphs (2) to (10)—

(2) For regulation 3<sup>(2)</sup> (persons temporarily absent from Northern Ireland) substitute—

**“Persons temporarily absent from Northern Ireland**

**3.—(1)** A claimant’s entitlement to state pension credit while the claimant is temporarily absent from Northern Ireland is to continue but for no longer than—

- (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
- (b) 8 weeks, where paragraph (2) applies; or
- (c) 26 weeks, where paragraph (3) applies,

provided the claimant continues to satisfy the other conditions of entitlement.

(2) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) the claimant’s partner or a child or qualifying young person normally living with the claimant; or
- (b) a close relative of—
  - (i) the claimant;
  - (ii) the claimant’s partner; or
  - (iii) a child or qualifying young person normally living with the claimant,

and the Department considers that it would be unreasonable to expect the claimant to return to Northern Ireland within 4 weeks.

(3) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the claimant undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the claimant had that illness or impairment before leaving Northern Ireland; or

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(1) S.R. 2003 No. 28: relevant amending Regulations are S.R. 2006 Nos. 128 and 359 and S.R. 2008 No. 410  
(2) Regulation 3 was substituted by regulation 3(2) of S.R. 2008 No. 410

- (b) the claimant accompanying his or her partner or a child or a qualifying young person normally living with the claimant for treatment or convalescence or care as mentioned in sub-paragraph (a).
- (4) In this regulation and in regulation 5—
  - “medically approved” means certified by a registered medical practitioner;
  - “qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.”.
- (3) Omit regulation 3A<sup>(3)</sup> (persons temporarily absent from Northern Ireland on 6th October 2008).
- (4) Omit regulation 4 (persons receiving treatment outside Northern Ireland).
- (5) After regulation 3, insert—

**“Meaning of “qualifying young person”**

**4A.—**(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of these Regulations—

- (a) up to, but not including, 1st September following the person’s 16th birthday; and
- (b) up to, but not including, the 1st September following the person’s 19th birthday, if the person is enrolled on, or accepted for, approved training or a course of education—
  - (i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations (Northern Ireland) 2016<sup>(4)</sup>;
  - (ii) which is provided at a school or college or provided elsewhere but approved by the Department for the purposes of regulation 6 of the Universal Credit Regulations (Northern Ireland) 2016; and
  - (iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.
- (2) Where the young person is aged 19, he or she must have started the education or training or been enrolled on or accepted for it before reaching that age.
- (3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.
- (4) “Approved training” means training provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department under the Employment and Training Act (Northern Ireland) 1950<sup>(5)</sup> whether that agreement is known as an operating agreement or by any other name and which is approved by the Department for the purposes of regulation 6 of the Universal Credit Regulations (Northern Ireland) 2016.
- (5) A person who is receiving universal credit, a contributory employment and support allowance, a contribution-based jobseeker’s allowance, an income-related employment and support allowance, an income-based jobseeker’s allowance or income support is not a qualifying young person.”.
- (6) In regulation 5 (persons treated as being or not being members of the same household)—

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<sup>(3)</sup> Regulation 3A was inserted by regulation 3(2) of S.R. 2008 No. 410

<sup>(4)</sup> S.R. 2016 No. 216

<sup>(5)</sup> 1950 c. 29 (N.I.)

(a) for paragraph (1)(f)(6) substitute—

“(f) except in circumstances where paragraph (1A) applies, he is absent from Northern Ireland;”;

(b) for paragraph (1A)(7) substitute—

“(1A) A person is to be treated as being a member of the same household as the claimant while he is absent from Northern Ireland but for no longer than—

- (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
- (b) 8 weeks, where paragraph (1B) applies; or
- (c) 26 weeks, where paragraph (1C) applies.

(1B) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) a child or qualifying young person normally living with the person; or
- (b) a close relative of—
  - (i) the person;
  - (ii) the person’s partner; or
  - (iii) a child or qualifying young person normally living with the person,

and the Department considers that it would be unreasonable to expect the person to return to Northern Ireland within 4 weeks.

(1C) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the person undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Northern Ireland; or
- (b) the person accompanying his partner or a child or qualifying young person normally living with the person for treatment or convalescence or care as mentioned in sub-paragraph (a).”.

(7) In paragraph 2(2)(f)(8) of Schedule 1 (circumstances in which persons are treated as being or not being severely disabled) after “qualifying young person” insert “within the meaning of regulation 4A” and for “for the purposes of Part IX of the Contributions and Benefits Act (child benefit)” substitute “as defined in Article 46 of the 2015 Order”.

(8) In paragraph 1(8)(9) of Schedule 3 (special groups) after “In regulations” insert “3”.

(9) In Schedule 5 (income from capital)—

(a) for paragraph 6(2) there is substituted—

“In this paragraph—

“dwelling” means the dwelling occupied as the home formerly so occupied by the claimant;

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(6) Paragraph (1)(f) was substituted by regulation 3(3)(a) of [S.R. 2008 No. 410](#)

(7) Paragraph (1A) was inserted by regulation 14(2)(b) of [S.R. 2006 No. 359](#)

(8) Paragraph 2(2)(f) was amended by regulation 5(3) of [S.R. 2006 No. 128](#)

(9) Paragraph 1(8) was amended by regulation 3(4) of [S.R. 2008 No. 410](#)

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**Changes to legislation:** There are currently no known outstanding effects for the The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017, Section 4. (See end of Document for details)

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“lone parent” means a person who has no partner and who is responsible for, and a member of the same household, as, a child;

“child” means a person who is a qualifying young person within the meaning of regulation 4A or a child as defined in Article 46 of the 2015 Order.”

- (b) in paragraph 15(8) in the definition of “child”**(10)** after “qualifying young person” insert “within the meaning of regulation 4A” and for “for the purposes of Part IX of the Contributions and Benefits Act (child benefit)” substitute “as defined in Article 46 of the 2015 Order”.

(10) In paragraph 1(2) of Schedule 6 (sums disregarded from claimant’s earnings) in the definition of “child”**(11)** after “qualifying young person” insert “within the meaning of regulation 4A” and for “for the purposes of Part IX of the Contributions and Benefits Act” substitute “as defined in Article 46 of the 2015 Order”.

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**Commencement Information**

**II** Reg. 4 in operation at 30.1.2017, see **reg. 1(1)(a)**

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**(10)** The definition of “child” was amended by regulation 5(5)(b) of [S.R. 2006 No. 128](#)

**(11)** The definition of “child” was amended by regulation 5(6) of [S.R. 2006 No. 128](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017, Section 4.