

**2010 No. 345**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments No. 6)  
Regulations (Northern Ireland) 2010**

*Made* - - - - *7th October 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), 123(1)(e), 132(3) and (4)(b), and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 2A(1), (3)(e), (4)(b) and (5), 13A(2)(a) and (4), and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b), Articles 14(1) and (4)(b), and 36(2) of, and paragraph 8A(1) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(c), and now vested in it(d), and sections 17(1) and (3)(a) and (b), 25(1) and (2)(a) and 28(2) of the Welfare Reform Act (Northern Ireland) 2007(e).

**Citation, commencement and interpretation**

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

(2) Regulations 2(3), 3 and 4(5), so far as they relate to a particular beneficiary come in to operation on the first day of the first benefit week to commence for that beneficiary on or after 1st November 2010.

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

(a) regulation 2(1)(f) of the Income Support (General) Regulations (Northern Ireland) 1987(g);

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- (a) 1992 c. 7; section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and amended by Schedule 3 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N. I)), section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) 1992 c. 8; section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by section 29(2)(a) and (b) and (4) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N. I)); 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 subsection 2(a) was amended by paragraph 9(b) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 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. 1999/671)
- (c) 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 and paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (d) See Article 8(b) of S.R. 1999 No. 481
- (e) 2007 c. 2 (N.I.)
- (f) The definition of “benefit week” was amended by regulation 2(a) of S.R. 1988 No. 318
- (g) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 318, S.R. 1996 No. 199, S.R. 2002 No. 332, S.R. 2003 No. 195 and S.R. 2009 No. 418

- (b) regulation 1(2)(a) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(b); and
- (c) regulation 2(1) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(c).

(4) The Interpretation Act (Northern Ireland) 1954(d) 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 are amended in accordance with paragraphs (2) and (3).

(2) In Schedule 1B(e) (prescribed categories of person)—

- (a) in paragraph 7(c)(f) for “that Act” substitute “the Contributions and Benefits Act”; and
- (b) in paragraph 14(b)(g) omit “7 weeks after the date on which her pregnancy ends where the expected week of confinement begins prior to 6th April 2003 or” and “where the expected week of confinement begins on or after 6th April 2003”.

(3) In paragraph 5B of Schedule 9(h) (sums to be disregarded in the calculation of income other than earnings), after sub-paragraph (2) add—

“(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90 of the Contributions and Benefits Act(i) (increases for dependants) where—

- (a) the claimant has a child or young person who is a member of the claimant’s family for the purposes of the claimant’s claim for income support; and
- (b) the claimant, or that claimant’s partner, has been awarded a child tax credit .”.

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

3. In paragraph 1 of Schedule 8B of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(j) (deductions of mortgage interest from benefit and payment to qualifying lenders) in the definition of “relevant benefits”(k)—

(a) after paragraph (b) insert—

“(ba) contribution-based jobseeker’s allowance where—

- (i) both income-based jobseeker’s allowance and contribution-based jobseeker’s allowance are in payment, and
- (ii) the income-based jobseeker’s allowance alone is insufficient for the purposes of this Schedule;”;

(b) omit “and” after paragraph (c); and

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(a) The definition of “benefit week” was substituted by regulation 3 of S.R. 2009 No. 107  
 (b) S.R. 1996 No. 198; relevant Regulations are S.R. 2000 No. 350, S.R. 2003 No. 195 and S.R. 2009 No. 107  
 (c) S.R. 2008 No. 280; relevant amending Regulation is S.R. 2008 No. 338  
 (d) 1954 c. 33 (N.I.)  
 (e) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199  
 (f) Paragraph 7 was amended by regulation 2(1)(b) and (2) of S.R. 2009 No. 418  
 (g) Sub-paragraph (b) was amended by regulation 2 of S.R. 2002 No. 332  
 (h) Paragraph 5B was inserted by paragraph 23(b) of Schedule 1 to S.R. 2003 No. 195  
 (i) Sections 80 and 90 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 are repealed by section 1(3)(e) of the Tax Credits Act 2002, section 80 was repealed by Schedule 6 to that Act; *See also* Article 2 of S.R. 2003 No. 212 which saves the repealed provisions in certain circumstances; section 80(4) was amended by Article 8 of S.R. 2010 No. 118; *See also* section 30(1) and (2) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13)  
 (j) S.R. 1987 No. 465; Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271; relevant amending Regulations are S.R. 1992 No. 271, S.R. 1996 Nos. 354 and 622, S.R. 2003 No. 191 and S.R. 2008 No. 286  
 (k) The definition of “relevant benefits” was substituted by regulation 2(27)(a)(ii) of S.R. 1996 No. 354 and amended by regulation 16(2)(b) of S.R. 1996 No. 622, regulation 14(2)(b) of S.R. 2003 No. 191 and regulation 13(19)(a) of S.R. 2008 No. 286

- (c) after paragraph (d) insert—
  - “(e) contributory employment and support allowance where—
    - (i) both income-related employment and support allowance and contributory employment and support allowance are in payment, and
    - (ii) the income-related employment and support allowance alone is insufficient for the purposes of this Schedule.”.

#### **Amendment of the Jobseeker’s Allowance Regulations**

**4.—**(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996 are amended in accordance with paragraphs (2) and (5).

(2) Subject to paragraph (3), in Schedule A1(a) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order),—

- (a) the following provisions are revoked—
  - (i) paragraph 6(a) and (b) (member incapable of work);
  - (ii) paragraph 9 (disabled students);
  - (iii) paragraph 10 (deaf students), and
  - (iv) paragraph 11 (blind members);
- (b) for the heading preceding paragraph 6 substitute “Member treated as capable of work, or member entitled to statutory sick pay”; and
- (c) in paragraph 6(c) for “that Act” substitute “the Benefits Act”.

(3) A provision revoked or amended by paragraph (2) continues to have effect in relation to a joint-claim couple as if that revocation or amendment had not been made where, immediately before 1st November 2010—

- (a) the couple were entitled to a jobseeker’s allowance; and
- (b) that provision applied to a member of that couple.

(4) Paragraph (3) ceases to apply to a joint-claim couple upon termination of the jobseeker’s allowance award to which they were entitled to immediately before 1st November 2010.

(5) In paragraph 6B of Schedule 6(b) (sums to be disregarded in the calculation of income other than earnings), after sub-paragraph (2) add—

“(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90 of the Benefits Act where—

- (a) the claimant has a child or young person who is a member of the claimant’s family for the purposes of the claimant’s claim for income-based jobseeker’s allowance; and
- (b) the claimant, or that claimant’s partner, has been awarded a child tax credit.”.

#### **Amendment of the Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations**

**5.** In the Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations (Northern Ireland) 1996(c) in—

- (a) regulation 2(1) (interpretation) in the definition of “recoupable benefit”;
- (b) regulation 4(1) and (8) (duties of the industrial tribunals and of the secretary of the tribunals in respect of monetary awards);
- (c) regulation 8(1), (2)(b) and (3)(b) (recoupment of benefit); and

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(a) Schedule A1 was inserted by Schedule 1 to S.R. 2000 No. 350  
 (b) Paragraph 6B was inserted by paragraph 23(b) of Schedule 2 to S.R. 2003 No. 195  
 (c) S.R. 1996 No. 459; relevant amending Rule is S.R. 1999 No. 472 (C. 36)

(d) regulation 10(1) and (2)(a) (provisions relating to determination of amount paid by way of or paid as on account of benefit),  
after “allowance” insert “, income-related employment and support allowance”.

#### **Amendment of the Employment and Support Allowance Regulations**

6.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008 are amended in accordance with paragraphs (2) and (3).

(2) In regulation 106(2) (notional income – deprivation and income on application) after sub-paragraph (ga)(b) insert—

“(gb) any sum to which regulation 137(4A) (treatment of student loans) applies;”.

(3) In regulation 137 (treatment of student loans)—

(a) in paragraph (4)(b) before “the student” insert “subject to paragraph (4A)”; and

(b) after paragraph (4) insert—

“(4A) A student is not to be treated as possessing any part of a student loan which has not been paid to that student in respect of an academic year where the educational institution at which the student was attending a course has confirmed in writing that the student has suspended attendance at the course due to a health condition or disability that renders the student incapable of continuing that course.”.

#### **Amendment of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations**

7. In regulation 8 of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008(c) (consequences of a failure to take part in a work-focused interview) —

(a) in paragraph (1)(a) before “50 per cent”; and

(b) in paragraph (1)(b) and (12)(c) after “by”,

insert “an amount equivalent to”.

Sealed with the Official Seal of the Department for Social Development on 7 October 2010

(L.S.)

*Anne Mc Cleary*

A senior officer of the Department for Social Development

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(a) Paragraph (2) was substituted by Article 12(4) of S.R. 1999 No. 472 (C. 36)  
(b) Sub-paragraph (ga) was inserted by regulation 8(8)(a) of S.R. 2009 No. 338  
(c) S.R. 2008 No. 465

## 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 Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”);

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

the Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations (Northern Ireland) 1996 (“ the Recoupment of Jobseeker’s Allowance and Income Support Regulations”);

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

the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008 (“the Social Security Incapacity Benefit Work-focused Interviews Regulations”).

Regulations 2 and 4 amend the Income Support Regulations and the Jobseeker’s Allowance Regulations to provide that child dependency increases paid to income support and jobseeker’s allowance claimants are disregarded for the purposes of income support or jobseeker’s allowance, to clarify that a particular reference to “an Act” is a reference to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Regulation 3 amends the Claims and Payments Regulations to provide that contributory jobseeker’s allowance and contributory employment and support allowance, where both income-based and contributory elements of those allowances are in payment at the same time, are relevant benefits for the purpose of making mortgage interest payments direct to lenders where the income-based elements of those benefits alone is insufficient for this purpose.

Regulation 4 amends the Jobseeker’s Allowance Regulations to revoke, subject to savings, provisions specifying that members of a joint-claim couple who are incapable of work due to health issues, being blind, or because they are disabled or deaf students do not have to satisfy the conditions of Article 3(2B)(b) (joint-claim couples qualifying conditions for Jobseeker’s Allowance) of the Jobseekers (Northern Ireland) Order 1995.

Regulation 5 amends the Recoupment of Jobseeker’s Allowance and Income Support Regulations to provide for the recoupment of income-related employment and support allowance payments where an industrial tribunal makes an award in favour of a claimant.

Regulation 6 amends the Employment and Support Allowance Regulations to provide that any part of a student loan which has not been taken up will not be treated as deemed income for benefit calculation purposes where a student has suspended his or her studies due to incapacitating illness.

Regulation 7 amends the Social Security (Incapacity Benefit Work-focused Interviews) Regulations to clarify that the amount of benefit by which claimants may have their benefit reduced is an amount equivalent to the work-related activity component provided for in the Employment and Support Allowance Regulations.

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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