

2012 No. 377

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments No. 2)
Regulations (Northern Ireland) 2012**

Made - - - - *15th October 2012*

Coming into operation - *5th November 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a), 132(3) and (4)(b), 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), Articles 14(1) to (3) and 36(2) of, and paragraph 11(2) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(b), and now vested in it(c), and sections 17(1), (2) and (3)(b), 25(2) and 28(2) of the Welfare Reform Act (Northern Ireland) 2007(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2012 and shall come into operation on 5th November 2012.

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

Amendment of the Income Support Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(f) are amended in accordance with paragraphs (2) to (4).

(2) In regulation (2)(1)(g) (interpretation) after the definition of “the Contributions and Benefits Act” insert—

(a) 1992 c. 7
(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) See Article 8(b) of S.R. 1999 No. 481
(d) 2007 c. 2 (N.I.)
(e) 1954 c. 33 (N.I.)
(f) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 431, S.R. 1990 No. 131, S.R. 1993 No. 373, S.R. 1996 No. 405, S.R. 1997 No. 22, S.R. 1998 No. 81, S.R. 2000 No. 241, S.R. 2006 No. 359 and S.R. 2008 No. 112
(g) The definition of “the Contributions and Benefits Act” was inserted by regulation 4(2)(a) of S.R. 1993 No. 373

““the Contributions Regulations” means the Social Security (Contributions) Regulations 2001(a);”.

(3) In regulation 29(b) (calculation of earnings derived from employed earner’s employment and income other than earnings) after paragraph (2A)(c) insert—

“(2B) Earnings derived by a claimant as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—

- (a) in the case of a period of training exceeding 14 days, over a period of 14 days;
- (b) in any other case, over a period which is equal to the duration of the training period.

(2C) The period over which earnings to which paragraph (2B) applies are to be taken into account shall begin on the date on which the payment is treated as paid under regulation 31.”.

(4) In Schedule 8 (sums to be disregarded in the calculation of earnings) for paragraph 15A(d) substitute—

“**15A.**—(1) Where earnings to which sub-paragraph (2) applies (in aggregate with the claimant’s other income (if any) calculated in accordance with this Part) exceed the applicable amount (as specified in Part IV and Schedule 2) less 10 pence, the amount of those earnings corresponding to that excess.

(2) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 7, derived by the claimant from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year.”.

Amendment of the Jobseeker’s Allowance Regulations

3.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(e) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 50 (persons temporarily absent from Northern Ireland) after paragraph (6C)(f) insert—

“(6D) For the purposes of the Order, a person shall be treated as being in Northern Ireland during any period of temporary absence from Northern Ireland not exceeding 15 days where—

- (a) the absence is for the purpose of taking part in annual continuous training as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations; and
- (b) the person or the person’s partner was entitled to a jobseeker’s allowance immediately before the period of absence began.”.

(a) S.I. 2001 No. 1004
(b) Regulation 29 was amended by regulation 6(a) of S.R. 1988 No. 431, regulation 10 of S.R. 1990 No. 131, regulation 5(1) of S.R. 1997 No. 22, regulation 2(5)(a) of S.R. 2008 No. 112 and in other ways that are not relevant to these Regulations
(c) Paragraph (2A) was inserted by regulation 5(1)(b) of S.R. 1997 No. 22 and amended by regulation 8 of S.R. 1998 No. 81 and regulation 3(5) and the Schedule to, S.R. 2000 No. 241
(d) Paragraph 15A was inserted by regulation 5(11)(c) of S.R. 1996 No. 405 and amended by regulation 5(8) of S.R. 2006 No. 359
(e) S.R. 1996 No. 198; relevant amending Regulations are S.R. 2004 No. 308 and S.R. 2012 No. 284
(f) Paragraph (6C) was inserted by regulation 3(4)(b) of S.R. 2004 No. 308

(3) In regulation 94(2B)(a)(a) (calculation of earnings derived from employed earner's employment and income other than earnings) omit "or which is equal to the duration of the training period,".

Amendment of the Employment and Support Allowance Regulations

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

(2) In regulation 91(c) (calculation of earnings derived from employed earner's employment and income other than earnings) after paragraph (3) insert—

“(3A) Earnings derived by a claimant's partner as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001 in respect of a period of annual continuous training for a maximum of 15 days in any calendar year, whether paid to the claimant's partner alone or together with other earnings derived from the same source, are to be taken into account—

- (a) in the case of a period of training exceeding 14 days, over a period of 14 days, or
- (b) in any other case, over a period which is equal to the duration of the training period.

(3B) The period over which earnings to which paragraph (3A) applies are to be taken into account shall begin on the date on which the payment is treated as paid under regulation 93.”.

(3) In Schedule 7 (sums to be disregarded in the calculation of earnings) after paragraph 11 insert—

“**11A.**—(1) In the case of an income-related employment and support allowance, where earnings to which sub-paragraph (2) applies (in aggregate with the claimant's other income (if any) calculated in accordance with this Part) exceed the applicable amount (calculated as specified in section 4(2) and (3) of the Act) less 10 pence, the amount of those earnings corresponding to that excess.

(2) This paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 7, derived by the claimant's partner from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001(d) in respect of annual continuous training for a maximum period of 15 days in any calendar year.”.

Revocation

5. Regulation 5(11)(c) of the Income-Related Benefits and Social Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 1996(e) is revoked.

Sealed with the Official Seal of the Department for Social Development on 15th October 2012

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) Paragraph (2B) was inserted by regulation 2(6) of S.R. 2012 No. 284
(b) S.R. 2008 No. 280; relevant amending Regulation is S.R. 2009 No. 92
(c) Regulation 91 was amended by regulation 8(2) of S.R. 2009 No. 92
(d) S.I. 2001 No. 1004
(e) S.R. 1996 No. 405

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

Regulation 2 amends the Income Support Regulations in relation to a person who is in receipt of income support who is a member of the Territorial Army or another reserve force or whose partner is a member of one of those forces.

Regulation 2(3) provides that earnings derived from participation as a member of the reserve forces in annual continuous training, whether paid alone or together with other earnings derived from the same source, are to be taken into account, for the purpose of entitlement to income support, for a period of the same duration as the training undertaken, except where the training exceeds 14 days, in which case they must be taken into account over a period of 14 days. The period over which the earnings are to be taken into account begins on the date on which the earnings are treated as having been paid in accordance with regulation 31 of the Income Support Regulations.

Regulation 2(4) provides that earnings derived from participation in annual continuous training will be disregarded to the extent that they would have the effect (when aggregated with any other income) of reducing a claimant’s entitlement to income support to less than 10 pence per week. This ensures that claimants in receipt of income support can retain a minimum entitlement to that benefit in the weeks in which their or their partner’s earnings for participation in annual training are taken into account.

Regulation 3 amends the Jobseeker’s Allowance Regulations.

Regulation 3(2) amends regulation 50 of those Regulations so that a person who is taking part in annual continuous training, as a member of the territorial or reserve forces, for a period not exceeding 15 days in any calendar year, will be treated as being in Northern Ireland, for the purpose of entitlement to a jobseeker’s allowance (“JSA”), when temporarily absent from Northern Ireland for the purpose of the training, provided the person or their partner was entitled to JSA immediately before the period of absence.

Regulation 3(3) amends regulation 94(2B)(a) of the Jobseeker’s Allowance Regulations to remove text that was inserted in error by the Jobseeker’s Allowance (Members of the Reserve Forces) Regulations (Northern Ireland) 2012 concerning the period over which earnings are to be taken into account which are received by a claimant who participates in annual continuous training of 15 days as a member of the territorial or reserve forces.

Regulation 4 amends the Employment and Support Allowance Regulations. It does so in relation to employment and support allowance in the same way as regulation 2 amends the Income Support Allowance Regulations but only in relation to earnings of a claimant’s partner derived from participation in annual continuous training as a member of the territorial or reserve forces.

Regulation 5 makes a consequential amendment.

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 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

STATUTORY RULES OF NORTHERN IRELAND

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