
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 149

SOCIAL SECURITY

**The Social Security (Income-related Benefits)
(Persons of Northern Ireland – Family Members)
(Amendment) Regulations (Northern Ireland) 2020**

Made - - - -

23rd July 2020

Coming into operation

24th August 2020

The Department for Communities⁽¹⁾ makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 133(2)(a) and (i) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽²⁾, Article 36(2) of, and paragraph 11(2) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995⁽³⁾, and now vested in it⁽⁴⁾, sections 1(5)(a) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002⁽⁵⁾ and section 25(2) of, and paragraph 5 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007⁽⁶⁾.

Regulations 5 and 6 are made with the consent of the Department of Finance⁽⁷⁾.

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Income-related Benefits) (Persons of Northern Ireland – Family Members) (Amendment) Regulations (Northern Ireland) 2020 and shall come into operation on 24th August 2020.

(2) The Interpretation Act (Northern Ireland) 1954⁽⁸⁾ shall apply to these Regulations as it applies to an Act of the Assembly.

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- (1) See section 1(7) of the [Departments Act \(Northern Ireland\) 2016 \(c. 5 \(N.I.\)\)](#)
- (2) [1992 c. 7](#); section 122(1) was amended by Schedule 6 to the Tax Credits Act [2002 \(c. 21\)](#) and section 171(1) was amended by paragraph 5 of Schedule 4 to that Act
- (3) [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](#))
- (4) See Article 8(b) of [S.R. 1999 No. 481](#) and section 1(7) of the Departments Act (Northern Ireland) 2016
- (5) [2002 c. 14 \(N.I.\)](#)
- (6) [2007 c. 2 \(N.I.\)](#); section 25(2) was amended by Article 57(2)(b) of the Welfare Reform (Northern Ireland) Order 2015 ([S.I. 2015/2006 \(N.I. 1\)](#))
- (7) 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](#) and section 1(4) of the Departments Act (Northern Ireland) 2016
- (8) [1954 c. 33 \(N.I.\)](#).

Amendment of the Income Support (General) Regulations

2. In regulation 21AA of the Income Support (General) Regulations (Northern Ireland) 1987⁽⁹⁾ (special cases: supplemental—persons from abroad)—

(a) after paragraph (3A) insert—

“(3B) Paragraph (3A)(a) does not apply to a person who—

(a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and

(b) would have a right to reside under the Immigration (European Economic Area) Regulations 2016⁽¹⁰⁾ if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3).”;

(b) in paragraph (4)(zb) omit the words “within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations”;

(c) after paragraph (4)(zc) insert—

“(zd) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3A)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national;”;

(d) after paragraph (4) add—

“(5) In this regulation—

“EEA national” has the same meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;

“family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016 except that regulation 7(4) of those Regulations does not apply for the purposes of paragraphs (3B) and (4)(zd);

“relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971⁽¹¹⁾.”.

Amendment of the Jobseeker’s Allowance Regulations

3. In regulation 85A of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996⁽¹²⁾ (special cases: supplemental—persons from abroad)—

(a) after paragraph (3A) insert—

“(3B) Paragraph (3A)(a) does not apply to a person who—

(a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and

⁽⁹⁾ [S.R. 1987 No. 459](#); regulation 21AA was inserted by regulation 2(3) of [S.R. 2006 No. 178](#) and amended by [S.R. 2014 No. 133](#) and [S.R. 2019 No. 90](#)

⁽¹⁰⁾ [S.I. 2016/1052](#)

⁽¹¹⁾ The immigration rules were laid before Parliament on 23rd May 1994 (HC 395). Appendix EU was laid before Parliament on 20th July 2018 as part of a command paper that amended the immigration rules entitled “Statement of Changes in Immigration rules” (Cm 9675). Appendix EU was amended in respect of family members of persons of Northern Ireland as part of a command paper entitled “Statement of Changes in Immigration Rules” (CP 232) laid before Parliament on 14th May 2020. The amendments include a definition of a relevant person of Northern Ireland

⁽¹²⁾ [S.R. 1996 No. 198](#); relevant amending Regulations are [S.R. 2006 No. 178](#), [S.R. 2014 No. 133](#) and [S.R. 2019 No. 90](#)

- (b) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3A).”;
- (b) in paragraph (4)(zb) omit the words “within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations”;
- (c) after paragraph (4)(zc) insert—
 - “(zd) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3A)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national.”;
- (d) after paragraph (4) add—
 - “(5) In this regulation—
 - “EEA national” has the meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;
 - “family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016 except that regulation 7(4) of those Regulations does not apply for the purposes of paragraphs (3B) and (4)(zd);
 - “relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.”.

Amendment of the State Pension Credit Regulations

4. In regulation 2 of the State Pension Credit Regulations (Northern Ireland) 2003(**13**) (persons not in Northern Ireland)—

- (a) after paragraph (3A) insert—
 - “(3B) Paragraph (3A)(a) does not apply to a person who—
 - (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
 - (b) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3).”;
- (b) in paragraph (4)(zb) omit the words “within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations”;
- (c) after paragraph (4)(zc) insert—
 - “(zd) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3A)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national.”;
- (d) after paragraph (4) add—
 - “(5) In this regulation—

“EEA national” has the meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;

“family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016 except that regulation 7(4) of those Regulations does not apply for the purposes of paragraphs (3B) and (4)(zd);

“relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.”.

Amendment of the Housing Benefit Regulations

5. In regulation 10 of the Housing Benefit Regulations (Northern Ireland) 2006(**14**)(persons from abroad)—

(a) after paragraph (4A) add—

“(4B) Paragraph (4A)(a) does not apply to a person who —

(a) has a right to reside granted by virtue of being a family member of a person of a relevant person of Northern Ireland; and

(b) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3A).”;

(b) in paragraph (5)(zb) omit the words “within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations”;

(c) after paragraph (5)(zc) insert

“(zd) a family member of a relevant person of Northern Ireland with a right to reside which falls within paragraph (4A)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national”.

(d) for paragraph (7) substitute—

“(7) In this regulation—

“EEA national” has the same meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;

“family member” has the same meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016, except that regulation 7(4) of those Regulations does not apply for the purposes of paragraph (4B) and (5)(zd) of this regulation;

“refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees;

“relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.”.