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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 and the Disability Working Allowance (General) Regulations (Northern Ireland) 1992 and are in part consequential on the coming into operation of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (“the Order”), which replaces sickness and invalidity benefits with incapacity benefit, and provides for a new test of incapacity for work.

The Income Support (General) Regulations (Northern Ireland) 1987 are amended to—

- (a) provide that a claimant may be entitled to income support whilst absent from Northern Ireland if he had been incapable of work for 364 days before the absence began, or 196 days in the case of a claimant who is terminally ill or who is entitled to the highest rate of the care component of disability living allowance, and they provide that this period of incapacity may be broken by gaps of up to 56 days (regulation 2(2));
- (b) provide that a claimant who has failed the incapacity for work test and is appealing against that decision is not required to be available for work or to register for employment, but that a claimant in these circumstances who has failed the “all-work” test will have the personal allowance element of his applicable amount reduced by 20 per cent. (regulation 2(3), (5) and (6));
- (c) provide that a person is exempt from the requirement to be available for work where he is incapable of work or where he fails the incapacity test solely on grounds of misconduct or similar matters (regulation 2(11)(a));
- (d) provide that a student may be entitled to income support if his applicable amount includes the disability premium or severe disability premium, or if, he has been incapable of work for 196 days, and they provide that this period of incapacity may be broken by gaps of up to 56 days (regulation 2(11)(b));
- (e) extend the qualifying period for the disability premium on grounds of incapacity for work from 28 weeks to 364 days, except for claimants who are terminally ill, and they provide that the qualifying period maybe broken by gaps of up to 56 days; they also permit the disability premium to be excluded from the applicable amount in respect of any period during which a claimant fails the incapacity test on grounds of misconduct or similar matters (regulation 2(12)); and
- (f) make additional consequential and transitional amendments, and savings (regulations 2(4) and (7) to (10), 4 and 5).

The Disability Working Allowance (General) Regulations (Northern Ireland) 1992 are amended to—

- (a) further define training for work and to list days which are to be disregarded in establishing whether a person was engaged in a period of training for work (regulation 3(2));
- (b) provide an additional allowance in respect of a disabled child in the maximum disability working allowance (regulation 3(3) and (4)); and
- (c) make transitional arrangements consequential on the abolition of invalidity pension and the introduction of incapacity benefit (regulation 6).

Regulations 3(2) and 6 are made under section 128(2B) of the Social Security Contributions and Benefits Act 1992 and Article 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (“the Order”) respectively and regulations 2(2), (4), (7), (8), (9), (10), (11) and (12)(a)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(i) and (c), 4(1) to (4) and 5 are made under Article 14(1) of the Order. Article 14(1) of the Order was brought into operation on 21st November 1994 by virtue of the Social Security (Incapacity for Work) (1994 Order (Commencement) Order (Northern Ireland) 1994 (S.R. 1994 No. 45 (C. 15)). These regulations are made before the end of a period of 6 month from the Commencement of the said Article 14(1), and are accordingly exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (“the Administration Act”), from reference to the Social Security Advisory Committee.

Otherwise these regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Administration Act, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.