
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 267

**SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT
PENSIONS**

**The Social Security and Child Support (Decisions and Appeals)
(Amendment No. 2) Regulations (Northern Ireland) 1999**

Made - - - - *11th June 1999*
Coming into operation *5th July 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 10(1) and (4), 11(3) and (6), 21(1)(b) and 74(1), (3) and (5) of the Social Security (Northern Ireland) Order 1998⁽¹⁾ and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of that Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) (Amendment No. 2) Regulations (Northern Ireland) 1999 and shall come into operation on 5th July 1999.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

2.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽²⁾ shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the date of notification” there shall be inserted the following definitions—

““disability benefit decision” means a decision to award a relevant benefit embodied in or necessary to which is a disability determination;

“disability determination” means—

(1) S.I.1998/1506 (N.I. 10)

(2) S.R. 1999 No. 162, to which there are amendments not relevant to these regulations

- (a) in the case of a decision as to an award of an attendance allowance or a disability living allowance, whether the person satisfies any of the conditions in section 64 or, as the case may be, 72(1) or 73(1) to (3) of the Contributions and Benefits Act;
 - (b) in the case of a decision as to an award of severe disablement allowance, whether the person is disabled for the purpose of section 68 of that Act; or
 - (c) in the case of a decision as to an award of industrial injuries benefit, whether the existence or extent of any disablement is sufficient for the purposes of section 103 or 108 of that Act or for the benefit to be paid at the rate which was in payment immediately prior to that decision;”;
- (b) after the definition of “financially qualified panel member” there shall be inserted the following definitions—
- ““incapacity benefit decision” means a decision to award a relevant benefit embodied in or necessary to which is a determination that a person is or is treated as incapable of work under Part XIIA of the Contributions and Benefits Act(3);
 - “incapacity determination” means a determination whether a person is incapable of work by virtue of the all work test (as defined in regulation 2(1) of the Incapacity for Work Regulations) or whether a person is treated as incapable of work in accordance with regulation 10 or 27 of those Regulations;
 - “the Incapacity for Work Regulations” means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(4);”;
- (c) after the definition of “party to the proceedings” there shall be inserted the following definition—
- ““payee” means a person to whom a benefit referred to in the definition of “disability determination” or “incapacity benefit decision” is payable;”.
- (3) In regulation 3(5) (revision of decisions)—
- (a) in sub-paragraph (b) at the beginning there shall be inserted the words “except in a case to which sub-paragraph (c) applies;”;
 - (b) after sub-paragraph (b) there shall be added—
 - “or
 - (c) where the decision is a disability benefit decision, or is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision), which was made in ignorance of, or was based on a mistake as to, some material fact in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination and—
 - (i) as a result of that ignorance of, or mistake as to, that fact, the decision was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake, and
 - (ii) the Department is satisfied that the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision;”.
- (4) In regulation 6(2) (supersession of decisions) after sub-paragraph (f) there shall be added—

(3) Part XIIA was inserted by Articles 7 and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(4) S.R. 1995 No. 41; relevant amending regulations are S.R. 1995 No. 149, S.R. 1996 No. 601 and S.R. 1997 No. 174

“or

(g) is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision) and where, since the decision was made, the Department has received medical evidence following an examination in accordance with regulation 8 of the Incapacity for Work Regulations from a doctor referred to in paragraph (1) of that regulation.”

(5) In regulation 7(2)(c) (date from which a decision superseded under Article 11 takes effect) for head (ii) there shall be substituted the following heads—

“(ii) in the case of a disability benefit decision, or an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision), where the Department is satisfied that in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination, the claimant or payee failed to notify an appropriate office of a change of circumstances which regulation 32 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(5) required him to notify, and the claimant or, as the case may be, payee knew, or could reasonably have been expected to know, that the change of circumstances should have been notified—

(aa) from the date on which the claimant or, as the case may be, the payee ought to have notified the change of circumstances, or

(bb) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified, or

(iii) in any other case, from the date of the change.”

(6) After regulation 7 there shall be inserted the following regulation—

“Date from which revised or superseded decision takes effect where entitlement is dependent on another benefit

7A. Where a person’s entitlement to, or receipt of, a benefit (“the first benefit”) is a condition of his being entitled to another benefit, allowance or advantage (“the second benefit”) and a decision is revised under regulation 3(5)(c) or a superseding decision is made under regulation 6(2) to which regulation 7(2)(c)(ii) applies, the effect of which is that the first benefit ceases to be payable, or becomes payable at a lower rate than was in payment immediately prior to that revision or supersession, the consequent decision as to his entitlement to the second benefit shall take effect from the date of the change in his entitlement to the first benefit.”

(7) In regulation 20(1) (making of payments which have been suspended)—

(a) after “regulation 16” there shall be inserted “or 17”; and

(b) after sub-paragraph (c) there shall be added—

“or

(d) in a case to which regulation 17(5) applies, the Department is satisfied that the benefit suspended is properly payable and the requirements of regulation 17(4) have been satisfied.”

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

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

11th June 1999.

John O'Neill
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.

Regulation 3(5) is amended to provide that revision of disability or incapacity related benefits decisions can take place on grounds of error of law or ignorance of, or mistake as to, a material fact connected with the claimant's condition where the claimant or recipient of the benefit knew, or could reasonably have been expected to know, of the fact and that it was relevant to the original decision (regulation 2(3)).

Regulation 6(2) is amended to provide that a ground for superseding a decision where there has been a determination as to a person's incapacity for work by applying the all work test may be the receipt of new medical evidence from a doctor approved by the Department of Health and Social Services (regulation 2(4)).

Regulation 7(2)(c) is amended to provide that where the supersession is of a decision on disability or incapacity related benefits on grounds connected with the claimant's condition and the claimant or recipient of the benefit knew, or could reasonably have been expected to know, of a relevant change of circumstances which he was required to report the effective date of the supersession is the date from which the change, or, if more than one, the first change, ought to have been notified (regulation 2(5)).

A new regulation 7A is inserted to provide that revision and supersession rules apply to revised entitlement to benefit where entitlement to, or payment of, another benefit is a condition and entitlement to that benefit ceases or reduces as a result of a revision under regulation 3(2)(c) or a supersession under regulation 6(2) to which regulation 7(2)(c)(ii) applies (regulation 2(6)).

Regulation 20 is amended to provide for benefit suspended under regulation 17 to be paid when the requirements of that regulation have been satisfied (regulation 2(7)).

Articles 10(1) and (4), 11(3) and (6) and 21(1)(b) of the Social Security (Northern Ireland) Order 1998, the enabling provisions under which these Regulations are made, were brought into operation, for the purpose only of authorising the making of regulations on 10th March 1999, by virtue of the Social Security (1998 Order) (Commencement No. 4) Order (Northern Ireland) 1999 ([S.R. 1999 No. 102 \(C. 13\)](#)). As the Regulations are made before the end of the period of 6 months from the commencement of that provision, they are, accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992, from reference to the Social Security Advisory Committee.