

2006 No. 150

SOCIAL SECURITY

**The Social Security (Incapacity for Work) (Amendment)
Regulations (Northern Ireland) 2006**

Made - - - - - *22nd March 2006*

Coming into operation - - - - - *10th April 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 167D and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity for Work) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 10th April 2006.

(2) In these regulations the “principal Regulations” means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(c).

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 13A(d) (welfare to work beneficiary)—

(a) in paragraph (1)(d)(i)—

(i) for “within a period of” there shall be substituted “not later than”, and

(ii) after “he” there shall be inserted “expects to be, or (as the case may be)”; and

(b) in paragraph (4) for the definition of “immediate past period of incapacity for work” there shall be substituted the following definition—

““immediate past period of incapacity for work” means—

(a) a period of incapacity for work under section 30C(1)(e);

(b) a period of incapacity for work under section 148; or

(a) 1992 c. 7; section 167D was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 1995 No. 41; relevant amending Rules are S.R. 1995 No. 149, S.R. 1996 No. 601, S.R. 1997 No. 174, S.R. 1998 No. 324, S.R. 1999 No. 428 (C. 32), S.R. 2000 Nos. 4 and 109, S.R. 2002 No. 86 and S.R. 2005 No. 415

(d) Regulation 13A was inserted by regulation 4(2) of S.R. 1998 No. 324 and amended by regulation 2(6) of S.R. 2000 No. 4

(e) Section 30C was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (c) a term composed of a period of incapacity for work under section 30C(1) and a period of incapacity for work under section 148 and includes any two such periods of incapacity for work which are separated by a period of not more than 8 weeks.”.

(3) For regulation 16(a) (person who works to be treated as capable of work) there shall be substituted the following regulation—

“**16.**—(1) A person shall be treated as capable of work on each day of any week during which he does work.

(2) Paragraph (1) applies even if—

- (a) it has been determined that he is, or is to be treated under any of regulations 10 to 15 or regulation 27(b) as, incapable of work; or
- (b) he meets the conditions set out in regulation 28(2)(c) for treating a person as incapable of work in accordance with the personal capability assessment until a determination has been made in accordance with that assessment.

(3) Paragraph (1) does not apply to—

- (a) work as a councillor disregarded under section 167F(d);
- (b) approved work under regulation 10A(e);
- (c) care of a relative or domestic tasks carried out in his own home;
- (d) any activity he undertakes during an emergency solely to protect another person or to prevent serious damage to property or livestock; or
- (e) any of the categories of work set out in regulation 17 (exempt work).

(4) This regulation is subject to regulation 13(3) (person receiving certain regular treatment).

(5) A person who does work to which this regulation applies in a week which is—

- (a) the week in which he first becomes entitled to a benefit, allowance or advantage on account of his incapacity for work in any period; or
- (b) the last week in any period in which he is incapable of work,

shall be treated as capable of work by virtue of paragraph (1) only on the actual day or days in that week on which he does that work.

(6) In this regulation—

“week” means a period of 7 days beginning with Sunday,

“work” means any work which a person does, whether or not he undertakes it in expectation of payment.”.

(4) For regulation 17(f) (exempt work) there shall be substituted the following regulation—

“**17.**—(1) The categories of work referred to in regulation 16(3)(e) are set out in the following paragraphs.

(2) Work for which the earnings in any week do not exceed £20·00.

(3) Work for which the earnings in any week do not exceed £81·00 and which—

- (a) is part of a treatment programme and is done under medical supervision while the person doing it is an in-patient, or is regularly attending as an out-patient, of a hospital or similar institution; or

(a) Regulation 16 was amended by regulation 4(4) of S.R. 1995 No. 149, regulation 4(4) of S.R. 1996 No. 601, regulation 2(8) of S.R. 2000 No. 4 and regulation 7(4) of S.R. 2000 No. 109
(b) Relevant amending Regulations are S.R. 1995 No. 149, S.R. 1996 No. 601, S.R. 1997 No. 174, S.R. 1998 No. 324, S.R. 2000 Nos. 4 and 109, S.R. 2002 No. 86 and S.R. 2005 No. 15
(c) Paragraph (2) was amended by regulation 4(10) of S.R. 1995 No. 149 and regulation 4(9) of S.R. 1996 No. 601
(d) Section 167F was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994
(e) Regulation 10A was inserted by regulation 7(3) of S.R. 2000 No. 109 and amended by regulation 2(2) of S.R. 2002 No. 86
(f) Regulation 17 was amended by Article 8(3) of S.R. 1999 No. 428 (C. 32), regulation 2(3) of S.R. 2002 No. 86 and regulation 4 of S.R. 2005 No. 415

- (b) is supervised by a person employed by a public authority or voluntary organisation engaged in the provision or procurement of work for persons who have disabilities.
- (4) Work which is done for less than 16 hours a week, for which earnings in any week do not exceed £81·00 and which—
- (a) is done during a 52 week period beginning on the first day on which the work is done, provided that—
 - (i) the person has not previously done specified work,
 - (ii) since the beginning of the last period of specified work, he has ceased to be entitled to a relevant benefit for a continuous period exceeding 8 weeks, or
 - (iii) not less than 52 weeks have elapsed since he previously did specified work; or
 - (b) is done by a person who is treated as incapable of work under—
 - (i) regulation 10 (certain persons with a severe condition to be treated as incapable of work), or
 - (ii) regulation 31(3) and (5)(c) to (k) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(a) (persons treated as incapable of work).
- (5) Work done in the course of receiving assistance in pursuing self-employed earner's employment whilst participating in a programme provided or other arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950(b) (general functions of the Department for Employment and Learning as to employment and training for employment).
- (6) Work done as a volunteer.
- (7) Duties undertaken on not more than one day a week as—
- (a) a member of the Disability Living Allowance Advisory Board; or
 - (b) a panel member with a disability qualification, as defined in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(c), acting as a member of an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998(d).
- (8) In this regulation—
- “less than 16 hours a week” means—
- (a) subject to paragraph (b) or (c), a combined total of less than 16 hours a week;
 - (b) subject to paragraph (c), an average of less than 16 hours a week in the period which comprises that week and the 4 weeks preceding it; or
 - (c) an average of less than 16 hours a week in the period of the cycle in which that week falls, where it is established that the work falls into a recognised cycle;
- “relevant benefit” means—
- (a) incapacity benefit, severe disablement allowance, income support or housing benefit under the Contributions and Benefits Act; or
 - (b) credits under regulations under section 22(5)(e),
- in connection with the entitlement to which the question of the person's capacity or incapacity for work arises under that Act;

(a) S.R. 1995 No. 35; paragraph (3) was amended by regulation 5(2)(b) of S.R. 2000 No. 4 and paragraph (5) was amended by regulation 3(8)(b) of S.R. 1995 No. 149 and regulation 3(5)(b) of S.R. 1996 No. 601

(b) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

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

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

(e) Subsection (5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

“specified work” means—

- (a) work done in accordance with paragraph (4)(a); or
- (b) work done in accordance with regulation 17(1A)(a) as in operation before 10th April 2006;

“voluntary organisation” means a body, other than a public authority, the activities of which are carried on otherwise than for profit.”.

Transitional provision

3.—(1) This regulation applies for the purposes of regulation 17(4)(a) of the principal Regulations as amended by these Regulations.

(2) This regulation applies where, before 10th April 2006, a person did work in a specified period in accordance with regulation 17(1B)(b), (1C)(b) or (1D)(b)(b) and the specified period would have ended after 9th April 2006.

(3) Where the specified period is the one to which regulation 17(1B)(b) or (1C)(b) applied, the 52 week period beginning on the first day on which the work is done referred to in regulation 17(4)(a) shall be treated as beginning on the first day of the period specified in regulation 17(1B)(b).

(4) Where the specified period is the one to which regulation 17(1D)(b) applied, the 52 week period beginning on the first day on which the work is done referred to in regulation 17(4)(a) shall be treated as beginning on the first day of the period specified in regulation 17(1D)(b).

(5) In this regulation, any reference to regulation 17(1B)(b), (1C)(b) or (1D)(b), as the case may be, is a reference to regulation 17(1B)(b), (1C)(b) or (1D)(b) of the principal Regulations as in operation before 10th April 2006.

Revocations

4. The provisions specified in column (1) of the Schedule are revoked to the extent mentioned in column (3).

Sealed with the Official Seal of the Department for Social Development on 22nd March 2006.



John O'Neill

A senior officer of the Department for Social Development

(a) Paragraph (1A) was inserted by regulation 2(3)(b) of S.R. 2002 No. 86 and was in operation from 8th April 2002 to 9th April 2006
(b) Paragraphs (1B), (1C) and (1D) were inserted by regulation 2(3)(b) of S.R. 2002 No.86

SCHEDULE

Regulation 4

Revocations

Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of revocation</i>
The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 1995	S.R. 1995 No. 149	Regulation 4(4)
The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations (Northern Ireland) 1996	S.R. 1996 No. 601	Regulation 4(4)
The Social Security (Welfare to Work) Regulations (Northern Ireland) 1998	S.R. 1998 No. 324	Regulation 4(3)
The Social Security (1998 Order) (Commencement No. 10 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999	S.R. 1999 No. 428 (C. 32)	Article 8(3)
The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000	S.R. 2000 No. 4	Regulation 2(8)
The Social Security (Approved Work) Regulations (Northern Ireland) 2000	S.R. 2000 No. 109	Regulation 7(4)
The Social Security (Incapacity) (Miscellaneous Amendments) Regulations (Northern Ireland) 2002	S.R. 2002 No. 86	Regulation 2(3)
The Social Security (Incapacity) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005	S.R. 2005 No. 415	Regulation 4

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 (“the principal Regulations”).

Regulation 2—

enlarges the class of welfare to work beneficiaries to whom the linking term in regulation 13A of the principal regulations applies, by amending the requirement to give notice and the definition of “immediate past period of incapacity for work”;

substitutes regulation 16 of the principal Regulations which describes persons who are treated as capable of work; and

substitutes regulation 17 of the principal Regulations which describes categories of exempt work.

Regulation 3 makes transitional provision in respect of work in a period which began before these Regulations come into operation.

Regulation 4 makes consequential revocations.

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.