
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 200

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments
No. 4) Regulations (Northern Ireland) 2010**

Made - - - - *7th June 2010*
Coming into operation *28th June 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 86A(1), 167A(2), 167D and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), sections 1(1), 5(1)(l) and (s), 5B(3) and (5) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(2), Articles 10(1), 11(3) and (6), 12(1), 17(2), 22(2) and 74(1) and (3) to (5) of the Social Security (Northern Ireland) Order 1998(3), and now vested in it(4), and sections 2(4)(a), 4(2)(a) and (6)(a), 8(1) and (4) to (6), 11(2)(d) and (g), 12(2)(i), 17(3)(b), 24(1), (2)(b) and (3), 25(2) and 28(2) of, and paragraph 3(2) of Schedule 1 and paragraphs 1(a), 6, 8, 9(a) and 10 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(5).

Citation, commencement and interpretation **N.I.**

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010 and shall come into operation on 28th June 2010.

Commencement Information

II Reg. 1 in operation at 28.6.2010, see [reg. 1](#)

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- (1) 1992 c. 7; sections 86A, 167A and 167D were inserted by Articles 4(4), 7 and 8(1) respectively of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), section 167A was amended by paragraph 22 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (2) 1992 c. 8; section 5B was inserted by section 38(1) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (3) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002
- (4) See Article 8(b) of S.R. 1999 No. 481
- (5) 2007 c. 2

Status: Point in time view as at 28/06/2010.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010. (See end of Document for details)

Amendment of the Social Security Contributions and Benefits Act **N.I.**

2. In section 44A(2)(d)(i) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(6) (deemed earnings factors) for “paragraph 1” substitute “in paragraphs 1 and 2”.

Commencement Information

I2 Reg. 2 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security (Claims and Payments) Regulations **N.I.**

3. In regulation 3 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(7) (claims not required for entitlement to benefit in certain cases) for paragraph (j) substitute—

- “(j) in the case of an employment and support allowance where—
- (i) the beneficiary has made and is pursuing an appeal against a decision of the Department that embodies a determination that the beneficiary does not have limited capability for work, and
 - (ii) that appeal relates to a decision to terminate or not to award a benefit for which a claim was made.”.

Commencement Information

I3 Reg. 3 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations **N.I.**

4. In regulation 5(2) of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(8) (offsetting prior payment against subsequent award) in Case 3 after “severe disablement allowance”, wherever it occurs, insert “, employment and support allowance for those persons with limited capability for work in relation to youth in accordance with paragraph 4 of Schedule 1 to the Welfare Reform Act”.

Commencement Information

I4 Reg. 4 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations **N.I.**

5. In regulation 9(1)(a)(i) and (b) of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations (Northern Ireland) 1994(9) (increase of incapacity benefit for adult

(6) Section 44A was inserted by section 29(3) of the [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4 (N.I.)) and amended by Article 2(2)(a)(i) of [S.R. 2002 No. 321](#), paragraph 30 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19), paragraph 31 of Schedule 1 to the [Pensions Act \(Northern Ireland\) 2008](#) (c. 1 (N.I.)), regulation 2(2) of [S.R. 2008 No. 286](#) and paragraph 4 of Schedule 7 to the [Pensions \(No. 2\) Act \(Northern Ireland\) 2008](#) (c. 13 (N.I.))

(7) [S.R. 1987 No. 465](#); paragraph (j) was added by regulation 13(3)(b) of [S.R. 2008 No. 286](#)

(8) [S.R. 1988 No. 142](#); regulation 5(2) was amended by Article 11(4) of [S.R. 1999 No. 472 \(C. 36\)](#), regulation 5 of [S.R. 2000 No. 404](#) and regulation 7 of [S.R. 2005 No. 299](#); see also regulation 15(2)(c) of [S.R. 2008 No. 286](#)

(9) [S.R. 1994 No. 485](#)

dependants and persons having the care of children) for “is aged at least 60” substitute “has reached the qualifying age referred to in section 1(6) of the State Pension Credit Act (Northern Ireland) 2002(10)”.

Commencement Information

I5 Reg. 5 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security (Incapacity for Work) (General) Regulations **N.I.**

6.—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(11) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) in the definition of “medical evidence”(12) for “doctor”, in both places where it occurs, substitute “health care professional”.

(3) After regulation 16(13) (person who works to be treated as capable of work) insert—

“Person to be treated as capable of work at the end of the period covered by medical evidence

16A. Where the Department is satisfied that it is appropriate in the circumstances of the case then a person may be treated as being capable of work if—

- (a) the person has supplied medical evidence in accordance with regulation 28(2)(a);
- (b) the period for which medical evidence was supplied has ended;
- (c) the Department has requested further medical evidence; and
- (d) the person has not, before whichever is the later of either the end of the period of six weeks beginning with the date of the Department’s request or the end of six weeks beginning with the day after the end of the period for which medical evidence was supplied—
 - (i) supplied further medical evidence, or
 - (ii) otherwise made contact with the Department to indicate a wish to have the question of incapacity for work determined.”.

(4) In regulation 17(14) (exempt work)—

- (a) in paragraph (3)(b) for “voluntary organisation” substitute “by a voluntary organisation or community interest company(15)”;
- (b) for paragraph (4)(a) substitute—
 - “(a) is done during a period of specified work, provided that—
 - (i) the person has not previously done specified work,
 - (ii) since the beginning of the last period of specified work, the person has ceased to be entitled to a relevant benefit for a continuous period exceeding 8 weeks, or

(10) 2002 c. 14 (N.I.)

(11) S.R. 1995 No. 41; relevant amending Regulations are S.R. 1996 No. 601, S.R. 2006 No. 150, S.R. 2008 No. 375 and S.R. 2009 No. 318

(12) The definition of “medical evidence” was inserted by regulation 4(2)(b) of S.R. 1996 No. 601

(13) Regulation 16 was substituted by regulation 2(3) of S.R. 2006 No. 150

(14) Regulation 17 was substituted by regulation 2(4) of S.R. 2006 No. 150 and amended by regulation 4(b) of S.R. 2008 No. 375 and regulation 4 of S.R. 2009 No. 318

(15) See Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) and section 1284 of the Companies Act 2006 (c. 49)

Status: Point in time view as at 28/06/2010.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010. (See end of Document for details)

- (iii) not less than 52 weeks have elapsed since the last period of specified work; or”; and
- (c) after paragraph (8) add—
- “(9) For the purposes of this regulation, a period of specified work begins on the first day on which any specified work is undertaken and continues for a period of 52 weeks, whether or not any further specified work is undertaken during that period.”.

Commencement Information

I6 Reg. 6 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations **N.I.**

7.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽¹⁶⁾ are amended in accordance with paragraphs (2) to (5).

(2) In regulation 3 (revision of decisions) before paragraph (6)⁽¹⁷⁾ insert—

“(5E) A decision under Article 9 or 11 awarding an employment and support allowance may be revised if—

- (a) the decision of the Department awarding an employment and support allowance was made on the basis that the claimant had made and was pursuing an appeal against a decision of the Department that the claimant did not have limited capability for work (“the original decision”); and
- (b) the appeal to the appeal tribunal in relation to the original decision is successful.

(5F) A decision under Article 9 or 11 awarding an employment and support allowance may be revised if—

- (a) the person’s current period of limited capability for work is treated as a continuation of another such period under regulation 145(1) and (2) of the Employment and Support Allowance Regulations; and
- (b) regulation 7(1)(b) of those Regulations applies.”.

(3) In regulation 6(2) (supersession of decisions) for sub-paragraph (q)⁽¹⁸⁾ substitute—

“(q) is an employment and support allowance decision where, since the decision was made, the Department has—

- (i) received medical evidence from a health care professional approved by the Department, or
- (ii) made a determination that the claimant is to be treated as having limited capability for work in accordance with regulation 20, 25, 26 or 33(2) of the Employment and Support Allowance Regulations.”.

(4) In regulation 7⁽¹⁹⁾ (date from which a decision to supersede under Article 11 takes effect)—

(a) for paragraph (37) substitute—

“(37) A decision made in accordance with regulation 6(2)(q) that embodies a determination that the claimant has—

⁽¹⁶⁾ S.R. 1999 No. 162; relevant amending Regulations are S.R. 2000 No. 365 and S.R. 2008 No. 286

⁽¹⁷⁾ Paragraph (6) was amended by regulation 4(a) of S.R. 2000 No. 365

⁽¹⁸⁾ Sub-paragraph (q) was added by regulation 22(4)(a)(ii) of S.R. 2008 No. 286

⁽¹⁹⁾ Paragraphs (37) and (38) were added by regulation 22(5)(h) of S.R. 2008 No. 286

- (a) limited capability for work;
 - (b) limited capability for work-related activity; or
 - (c) limited capability for work and limited capability for work-related activity,
- which is the first such determination shall take effect from the beginning of the 14th week of entitlement.”; and
- (b) after paragraph (38) add—
 - “(39) A decision made in accordance with regulation 6(2)(q) that embodies a determination that the claimant has—
 - (a) limited capability for work;
 - (b) limited capability for work-related activity; or
 - (c) limited capability for work and limited capability for work-related activity,where regulation 5 of the Employment and Support Allowance Regulations (the assessment phase – previous claimants) applies shall take effect from the beginning of the 14th week of the person’s continuous period of limited capability for work.”.
- (5) In regulation 17(5) (provision of information or evidence) for “(e)” substitute “(f)”.

Commencement Information

17 Reg. 7 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Social Security (Claims and Information) Regulations N.I.

- 8.** In regulation 1(3) of the Social Security (Claims and Information) Regulations (Northern Ireland) 2007(**20**) (interpretation) in the definition of “specified benefit” after paragraph (e) insert—
 - “(ee) employment and support allowance;”.

Commencement Information

18 Reg. 8 in operation at 28.6.2010, see [reg. 1](#)

Amendment of the Employment and Support Allowance Regulations N.I.

- 9.—(1)** The Employment and Support Allowance Regulations (Northern Ireland) 2008(**21**) are amended in accordance with paragraphs (2) to (20).
- (2) In regulation 2 (interpretation)—
 - (a) in paragraph (1)—
 - (i) omit the definition of “medical examination centre”;
 - (ii) for the definition of “period of limited capability for work” substitute—
 - ““period of limited capability for work” means, except in paragraph (4A), a period throughout which a person has, or is treated as having, limited capability for work, and does not include a period which is outside the prescribed time for claiming as specified in regulation 19 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987”; and

(20) S.R. 2007 No. 467

(21) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2008 Nos. 413 and 478 and S.R. 2009 Nos. 318 and 338

- (b) after paragraph (4) insert—
- “(4A) For the purposes of paragraph 4 of Schedule 1 to the Act (condition relating to youth) “period of limited capability for work” means a period throughout which a person has, or is treated as having, limited capability for work.”.
- (3) In regulation 4(1) (the end of the assessment phase) for “regulations 5 and 6” substitute “regulation 5”.
- (4) In regulation 5 (the assessment phase – previous claimants)—
- (a) in paragraph (1)(b) for “paragraph (3) and regulation 6” substitute “paragraphs (3) and (4)”;
- (b) in paragraph (2)—
- (i) at the end of sub-paragraph (a)(ii) omit “and”,
- (ii) at the end of sub-paragraph (a)(iii) for “or” substitute “and”,
- (iii) after sub-paragraph (a)(iii) insert—
- “(iv) the period for which the claimant was previously entitled was no more than 13 weeks; or”,
- (iv) at the end of sub-paragraph (b)(i) omit “and”, and
- (v) in sub-paragraph (b) after head (ii) add—
- “and
- (iii) the period for which the claimant was previously entitled was no more than 13 weeks.”; and
- (c) after paragraph (3) add—
- “(4) Where a person has made and is pursuing an appeal against a decision of the Department that embodies a determination that the claimant does not have limited capability for work—
- (a) paragraph (3) does not apply; and
- (b) paragraph (1) does not apply to any period of limited capability for work to which regulation 147A(2) applies until a determination of limited capability for work has been made following the determination of the appeal by the appeal tribunal.”.
- (5) Omit regulation 6 (the assessment phase – claimants appealing against a decision).
- (6) In regulation 7(22) (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply)—
- (a) in paragraph (1)(b)(iii) after “allowance” insert “or that period was more than 13 weeks”; and
- (b) in paragraph (2) for “where the claimant is appealing a decision which embodies a determination that the claimant does not have limited capability for work” substitute “to any period of limited capability for work to which regulation 147A(2) applies until the determination of limited capability for work has been made following the determination of the appeal by the appeal tribunal”.
- (7) For regulation 13 (modification of the relevant benefit year) substitute—

“Modification of the relevant benefit year

13.—(1) Where paragraph (2) applies, paragraph 3(1)(f) of Schedule 1 to the Act has effect as if “relevant benefit year” is any benefit year which includes all or part of the period of limited capability for work which includes the relevant benefit week.

(2) This paragraph applies where a claimant has made a claim to employment and support allowance but does not satisfy—

- (a) the first contribution condition;
- (b) the second contribution condition; or
- (c) both contribution conditions,

but would satisfy those conditions if the modified definition of “relevant benefit year” provided in paragraph (1) applied.”.

(8) In regulation 30(2) (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) after sub-paragraph (b) add—
“or

- (c) that it has not, within the 6 months preceding the date of claim, been determined, in relation to the claimant’s entitlement to any benefit, allowance or advantage, which is dependent upon the claimant being incapable of work, that the claimant is capable of work, or is to be treated as capable of work under regulation 7 or 8 of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995⁽²³⁾ (“the 1995 Regulations”), unless—
 - (i) the claimant is suffering from some specific disease or bodily or mental disablement from which the claimant was not suffering at the time of that determination,
 - (ii) a disease or bodily or mental disablement from which the claimant was suffering at the time of that determination has significantly worsened, or
 - (iii) in the case of a claimant who was treated as capable of work under regulation 7 of the 1995 Regulations (failure to provide information), the claimant has since provided the information requested by the Department under that regulation.”.

(9) After regulation 32⁽²⁴⁾ (certain claimants to be treated as not having limited capability for work) insert—

“Claimants to be treated as not having limited capability for work at the end of the period covered by medical evidence

32A. Where the Department is satisfied that it is appropriate in the circumstances of the case then a claimant may be treated as not having limited capability for work if—

- (a) the claimant has supplied medical evidence in accordance with regulation 30(2)(a);
- (b) the period for which medical evidence was supplied has ended;
- (c) the Department has requested further medical evidence; and
- (d) the claimant has not, before whichever is the later of either the end of the period of 6 weeks beginning with the date of the Department’s request or the end of 6 weeks beginning with the day after the end of the period for which medical evidence was supplied—
 - (i) supplied further medical evidence, or

⁽²³⁾ S.R. 1995 No. 41; regulation 8 was amended by regulation 2(4) of S.R. 2000 No. 4 and regulation 3(3) of S.R. 2007 No. 332
⁽²⁴⁾ Regulation 32 was substituted by regulation 3(5) of S.R. 2008 No. 413

Status: Point in time view as at 28/06/2010.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010. (See end of Document for details)

- (ii) otherwise made contact with the Department to indicate a wish to have the question of limited capability for work determined.”.
- (10) In regulation 45(25) (exempt work)—
- (a) in paragraph (3)(b) for “voluntary organisation” substitute “by a voluntary organisation or community interest company(26)”;
- (b) in paragraph (4) for sub-paragraph (a) substitute —
- “**(a)** is done during a period of specified work, provided that—
- (i) the claimant has not previously done specified work,
- (ii) since the beginning of the last period of specified work, the claimant has ceased to be entitled to a relevant benefit for a continuous period exceeding 12 weeks, or
- (iii) not less than 52 weeks have elapsed since the last period of specified work; or”;
- and
- (c) after paragraph (10) add—
- “(11) For the purposes of this regulation, a period of specified work begins on the first day on which any specified work is undertaken and continues for a period of 52 weeks, whether or not any further specified work is undertaken during that period.”.
- (11) In regulation 49 (notification of assessment) after paragraph (2) add—
- “(3) A claimant may be required to take part in a work-focused health-related assessment either by attendance in person or by telephone.”.
- (12) Omit regulation 50 (determination of the place of the work-focused health-related assessment).
- (13) In regulation 53(3) (failure to take part in a work-focused health-related assessment)—
- (a) for sub-paragraph (b) substitute—
- “(b) that the physical or mental health or condition of the claimant made it impracticable for the claimant to take part in a work-focused health-related assessment;”;
- (b) at the end of sub-paragraph (c) omit “and”; and
- (c) after sub-paragraph (c) insert—
- “(ca) that the claimant had caring responsibilities in relation to a child and childcare was not reasonably available or was unsuitable due to the particular needs of the claimant or the child; and”.
- (14) In regulation 61(3) (failure to take part in a work-focused interview)—
- (a) for sub-paragraph (i)(27) substitute—
- “(i) that the physical or mental health or condition of the claimant made it impracticable for the claimant to attend at the time and place fixed for the interview;”;
- and
- (b) after sub-paragraph (j) insert—
- “(ja) that the claimant had caring responsibilities in relation to a child and childcare was not reasonably available or was unsuitable due to the particular needs of the claimant or the child; and”.

(25) Regulation 45 was amended by regulation 5(2) of [S.R. 2009 No. 318](#)

(26) See Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) and section 1284 of the Companies Act 2006 (c. 49)

(27) Sub-paragraph (i) was amended by regulation 8(3) of [S.R. 2009 No. 338](#)

(15) After regulation 147 (recovery orders) insert—

“Claimants appealing a decision

147A.—(1) This regulation applies where a claimant has made and is pursuing an appeal against a decision of the Department that embodies a determination that the claimant does not have limited capability for work.

(2) Subject to paragraph (3), where this regulation applies, a determination of limited capability for work by the Department under regulation 19 shall not be made until the appeal is determined by the appeal tribunal.

(3) Paragraph (2) does not apply where either—

- (a) the claimant suffers from some specific disease or bodily or mental disablement from which the claimant was not suffering when entitlement began; or
- (b) a disease or bodily or mental disablement from which the claimant was suffering at that date has significantly worsened.

(4) Where this regulation applies and the Department makes a determination—

- (a) in a case to which paragraph (3) applies (including where the determination is not the first such determination) that the claimant does not have or, by virtue of regulation 22 or 23, is to be treated as not having limited capability for work; or
- (b) subsequent to a determination that the claimant is to be treated as having limited capability for work by virtue of a provision of these Regulations other than regulation 30, that the claimant is no longer to be so treated,

this regulation and regulation 30 apply as if that determination had not been made.

(5) Where this regulation applies and—

- (a) the claimant is entitled to an employment and support allowance by virtue of being treated as having limited capability for work in accordance with regulation 30;
- (b) neither of the circumstances in paragraph (3) applies, or, subsequent to the application of either of those circumstances, the claimant has been determined not to have limited capability for work; and
- (c) the claimant’s appeal is dismissed, withdrawn or struck out,

the claimant is to be treated as not having limited capability for work with effect from the beginning of the first day of the benefit week following the date on which the Department was notified by the appeal tribunal that the appeal is dismissed, withdrawn or struck out.

(6) Where a claimant’s appeal is successful, subject to paragraph (7), any finding of fact or other determination embodied in or necessary to the decision of the appeal tribunal or on which the appeal tribunal’s decision is based shall be conclusive for the purposes of the decision of the Department, in relation to an award made in a case to which this regulation applies, as to whether the claimant has limited capability for work or limited capability for work-related activity.

(7) Paragraph (6) does not apply where, due to a change of circumstances after entitlement to which this regulation applies began, the Department is satisfied that it is no longer appropriate to rely on such finding or determination.”.

(16) In regulation 154 (absence in order to receive health service treatment)—

- (a) at the end of paragraph (b) omit “and”; and
- (b) omit paragraph (c).

(17) In regulation 155(1) (absence of member of family of member of Her Majesty’s forces)—

Status: Point in time view as at 28/06/2010.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010. (See end of Document for details)

- (a) at the end of sub-paragraph (a) omit “and”; and
- (b) omit sub-paragraph (b).

(18) In paragraph 10(1)(a) of Schedule 6 (housing costs – general exclusions from paragraphs 8 and 9) for “the claimant’s partner” substitute “the claimant or the claimant’s partner”.

(19) In Schedule 7 (sums to be disregarded in the calculation of earnings) after paragraph 5(28) insert—

“**5A.** In the case of a claimant who receives a payment to which regulation 92(2) applies, £20, except where regulation 45(2) to (4) applies to the claimant, in which case the amounts specified in paragraph 6 shall apply, but only up to a maximum of £20.”.

(20) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 7, after sub-paragraph (2) add—

“(3) An increase under section 80 or 90 of the Contributions and Benefits Act.”; and

- (b) in paragraph 14(1)(a) after “allowance” add “or a jobseeker’s allowance”.

Commencement Information

I9 Reg. 9 in operation at 28.6.2010, see [reg. 1](#)

Revocations **N.I.**

10. Regulation 13(3)(b) of the Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008(29) and regulation 8(3) of the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2009(30) are revoked.

Commencement Information

I10 Reg. 10 in operation at 28.6.2010, see [reg. 1](#)

Sealed with the Official Seal of the Department for Social Development on 7th June 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social
Development

(28) Paragraph 5 was amended by regulation 5(4) of [S.R. 2009 No. 318](#)

(29) [S.R. 2008 No. 286](#)

(30) [S.R. 2009 No. 338](#)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend—

- the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987;
- the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988;
- the Social Security (Incapacity Benefit – Increases for Dependants) Regulations (Northern Ireland) 1994;
- the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995;
- the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;
- the Social Security (Claims and Information) Regulations (Northern Ireland) 2007; and
- the Employment and Support Allowance Regulations (Northern Ireland) 2008.

Regulation 2 amends section 44A(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to allow satisfaction of the first or second National Insurance contribution conditions for employment and support allowance to establish entitlement to deemed earnings factors for pensioners.

Regulation 3 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to clarify that, in relation to employment and support allowance, a claim is not required where the claimant is pursuing an appeal against a decision of the Department which embodies a determination that they do not have limited capability for work, if the appeal relates to a decision to terminate or not to award a benefit for which a claim was made.

Regulation 4 amends the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 to ensure that, where employment and support allowance is awarded to a person for a period for which child benefit is also in payment in respect of that person, the child benefit can be offset against the employment and support allowance due.

Regulation 5 makes a minor amendment to the Social Security (Incapacity Benefit – Increases for Dependants) Regulations (Northern Ireland) 1994 so that the appropriate definition of pensionable age is applied.

Regulation 6 amends the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 to—

- update the definition of ‘medical evidence’ to reflect the fact that health care professionals, as well as doctors, may provide advice to decision-makers;
- insert a new regulation to provide for persons to be treated as capable of work when the period covered by their medical evidence has expired and they fail to provide further evidence or to contact the Department;
- amend the permitted work provisions to include work carried out under the supervision of a person employed by a community interest company in addition to public authorities and voluntary organisations and to clarify that a period of specified work is a continuous period of 52 weeks.

Status: Point in time view as at 28/06/2010.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010. (See end of Document for details)

Regulation 7 makes minor amendments to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 in relation to revision, supersession and information and evidence provisions.

Regulation 8 makes a minor amendment to the Social Security (Claims and Information) Regulations (Northern Ireland) 2007 to add employment and support allowance to the list of benefits to which the Regulations apply.

Regulation 9 makes a number of amendments to the Employment and Support Allowance Regulations (Northern Ireland) 2008—

the definition of ‘period of limited capability for work’ is amended to clarify the period for which entitlement to an employment and support allowance can be considered;

minor amendments to provisions regarding the beginning and end of the assessment phase;

regulation 13 is substituted by a new regulation which clarifies the modification of the relevant benefit year for claimants who do not satisfy the contribution conditions but would satisfy those conditions in a subsequent benefit year if the modified relevant benefit year is used;

regulation 30 is amended to provide that, except in certain circumstances such as a new medical condition or a significant deterioration in an existing condition, a claimant will not be treated as having limited capability for work if a claim for employment and support allowance is made within six months of a determination that the claimant is capable of work or is to be treated as capable of work under regulations relating to incapacity benefit;

a new regulation 32A is inserted to provide for persons to be treated as capable of work when the period covered by their medical evidence has expired and they fail to provide further evidence or to contact the Department;

the supported permitted work provisions are amended to include work carried out under the supervision of a person employed by a community interest company in addition to public authorities and voluntary organisations and to clarify that a period of specified work is a continuous period of 52 weeks;

regulations 53 and 61 are amended in respect of the matters which must be considered in determining whether a claimant has good cause for failure to undertake a work-focused health-related assessment or a work-focused interview;

a new regulation 147A is inserted to make provision for claimants who appeal a decision of the Department which embodies a determination that they do not have limited capability for work, in that, unless there is an intervening change of circumstances, the determination whether the claimant has limited capability for work will be made when the appeal is determined;

to ensure consistency with other income-related benefits, minor amendments will provide for a £20 disregard to apply where a royalty payment is received some time after work has ceased and income-related employment and support allowance is in payment; and the condition that the claimant must seek and receive permission from the Department before leaving Northern Ireland to travel abroad for health service treatment is removed.

Regulation 10 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.

Status:

Point in time view as at 28/06/2010.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2010.