
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of provisions relating to entitlement to employment and support allowance (“ESA”).

They make amendments which relate to, or are consequential upon, the revocation of the linking rule in regulation 145(2) (“the old linking rule”) of the Employment and Support Allowance Regulations (Northern Ireland) 2008 (“the Employment and Support Allowance Regulations”). That rule had provided that where a claimant was a work or training beneficiary, any period of limited capability for work which was separated from another such period by not more than 104 weeks was to be treated as a continuation of the earlier period.

Regulation 2 amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 by removing the reference to the old linking rule from regulation 3(5F). As amended, this provision enables the Department to revise a decision where (i) a person’s current period of limited capability for work is treated as a continuation of another such period under the linking rule in regulation 145(1) of the Employment and Support Allowance Regulations and (ii) regulation 7(1)(b) of the Employment and Support Allowance Regulations applies.

Regulation 3 amends Schedule 4 to the Housing Benefit Regulations (Northern Ireland) 2006 to make consequential amendments removing references to the old linking rule.

Regulation 4 amends the Employment and Support Allowance Regulations.

Paragraph (2) omits the definition of “work or training beneficiary” from regulation 2(1).

Paragraph (3) removes the references to and makes an amendment consequential upon the removal of the old linking rule, from regulation 5(2).

Paragraph (4) removes the reference to the old linking rule from regulation 7(1A).

Paragraph (5) revokes the old linking rule along with the associated linking rules in regulation 145(2) to (5).

Paragraph (6) revokes regulations 148, 149 and 150. Regulation 148 defines “work or training beneficiary” and regulations 149 and 150 provide for the treatment of work or training beneficiaries as having limited capability for work or limited capability for work-related activity respectively.

Paragraph (7) inserts a definition of “work or training beneficiary” into paragraph 1(3) of Schedule 6 as a definition of that term is still necessary for the purposes of that Schedule (which relates to housing costs).

Regulation 5 amends the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 to remove the reference to and make an amendment consequential upon the removal of the old linking rule from regulation 21(5). Regulation 21 provides for the circumstances in which a transitional addition is terminated. A transitional addition is based on the difference between specified elements of a person’s existing award (of incapacity benefit, severe disablement allowance or income support on disability grounds) and specified elements of the ESA for which a claimant is entitled following their reassessment.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.