
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 150

SOCIAL SECURITY

**The Social Security (Incapacity Benefit)
(Consequential and Transitional Amendments and
Savings) Regulations (Northern Ireland) 1995**

Made - - - -

7th April 1995

Coming into operation

13th April 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 86A(1), 113(1)(b) and 121(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁾, sections 5(1)(o) and 59(1) of the Social Security Administration (Northern Ireland) Act 1992⁽²⁾ and Article 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994⁽³⁾ and of all other powers enabling it in that behalf and with the consent of the Department of Finance and Personnel to regulation 22⁽⁴⁾, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations (Northern Ireland) 1995 and shall come into operation on 13th April 1995.

(2) In these regulations—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(1) 1992 c. 7; section 86A is inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(2) 1992 c. 8

(3) S.I. 1994/1898 (N.I. 12)

(4) See section 165(9)(a) of the Social Security Administration (Northern Ireland) Act 1992

“the appointed day” means 13th April 1995.

(3) The Interpretation Act (Northern Ireland) 1954⁽⁵⁾ shall apply to these regulations as it applies to a Measure of the Assembly.

PART II

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations

2. In regulation 3 of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975⁽⁶⁾ (modifications, in relation to widows, of provisions with respect to unemployment and sickness benefit, maternity allowance and Category retirement pension)—

- (a) in the heading and in paragraph (1)(a) and (b) for “sickness benefit” there shall be substituted “short-term incapacity benefit”;
- (b) in paragraph (5) for the words “sickness benefit” in each place where they occur there shall be substituted “short-term incapacity benefit”.

Amendment of the Social Security (Airmen’s Benefits) Regulations

3. In regulation 2 of the Social Security (Airmen’s Benefits) Regulation (Northern Ireland) 1975⁽⁷⁾ (removal of disqualification in the case of airmen for receiving benefit while absent from Northern Ireland) for the word “sickness benefit, invalidity benefit” in both places where they occur there shall be substituted “incapacity benefit”.

Amendment of the Social Security (Mariners' Benefits) Regulations

4.—(1) The Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975⁽⁸⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4 (removal of disqualification for receiving benefit by reason of absence from Northern Ireland) for the words “sickness benefit, invalidity benefit” in both places where they occur there shall be substituted “incapacity benefit”.

(3) In regulation 5 (evidence of unemployment or incapacity) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

(4) In regulation 6(2) (special provisions relating to days of unemployment or incapacity for work in the case of mariners and share fishermen employed on board any ships or vessels) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

Amendment of the Social Security (Hospital In-Patients) Regulations

5.—(1) The Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975⁽⁹⁾ shall be amended in accordance with paragraphs (2) and (3).

(5) 1954 c. 33 (N.I.)

(6) S.R. 1975 No. 19; relevant amending regulations are S.R. 1978 No. 102 and S.R. 1989 No. 193

(7) S.R. 1975 No. 101, amended by S.R. 1984 No. 317

(8) S.R. 1975 No. 108, amended by S.R. 1984 No. 317

(9) S.R. 1975 No. 109; relevant amending regulations are S.R. 1987 No. 12

(2) In Schedule 1 (beneficiary to be regarded as having a dependent if any of these benefits is or would be payable) after paragraph (c) there shall be added the following paragraph—

“(ca) incapacity benefit where a beneficiary would satisfy the conditions for an increase of sickness or invalidity benefit in respect of such a dependent had the provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and regulations made thereunder relating to such benefits and to such an increase which applied on 12th April 1995 still been in force.”.

(3) In Schedule 2 (personal benefits) for “Sickness benefit” and “Invalidity benefit” there shall be substituted “Incapacity benefit”.

Amendment of the Social Security (Credits) Regulations

6.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975⁽¹⁰⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “the Act” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”.

(3) In regulation 8(1) (credits on termination of full-time education, training or apprenticeship) for “sickness benefit” there shall be substituted “short-term incapacity benefit”.

(4) In regulation 9 (credits for unemployment or incapacity for work)—

(a) for paragraph (5) there shall be substituted the following paragraph—

“(5) Subject to paragraph (8), in this regulation except for paragraph (9)(f) a “day of incapacity for work” in relation to any person means any day which—

- (a) was a day of incapacity for work under section 30C of the Contributions and Benefits Act⁽¹¹⁾ (incapacity benefit: days and periods of incapacity for work); or
- (b) would have been such a day had he claimed short-term incapacity benefit or maternity allowance within the prescribed time; or
- (c) was a day of incapacity for work for the purposes of statutory sick pay under section 147 of the Contributions and Benefits Act (statutory sick pay: employers liability) and fell within a period of entitlement under section 149 of that Act (period of incapacity for work).”;

(b) in paragraph (8) for “paragraph (5)(b) or (d)” there shall be substituted “paragraph (5)(b) or (c)”;

(c) in paragraph (9)—

- (i) for the words “sickness benefit” where they first occur and where they occur in sub-paragraphs (a), (c) and (f) there shall be substituted “short-term incapacity benefit”;
- (ii) in sub-paragraph (b) for head (i) there shall be substituted the following head—

“(i) short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act⁽¹²⁾”;
- (iii) in sub-paragraph (f) for the words “paragraph (5)(d)” in both places where they occur there shall be substituted “paragraph (5)(c)”;

⁽¹⁰⁾ S.R. 1975 No. 113; relevant amending regulations are S.R. 1977 No. 132, S.R. 1983 No. 31, S.R. 1987 Nos. 153 and 220, S.R. 1988 No. 326 and S.R. 1989 No. 368

⁽¹¹⁾ Section 30C is inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

⁽¹²⁾ Section 30A is inserted by Article 3(1) of the Social Security (incapacity for Work) (Northern Ireland) Order 1994

(iv) sub-paragraph (g) is hereby revoked.

Amendment of the Social Security (Invalid Care Allowance) Regulations

7.—(1) The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976⁽¹³⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 11A⁽¹⁴⁾ (men aged 65 before 28th October 1994) there shall be inserted the following regulation—

“Application of the Social Security (General Benefit) Regulations to invalid care allowance

11B. The provisions of the Social Security (General Benefit) Regulations (Northern Ireland) 1984⁽¹⁵⁾, specified in column (1) of Schedule 1 to these regulations, the subject matter of which is described in column (2) of that Schedule, shall, with any necessary modifications, apply to invalid care allowance as they apply to incapacity benefit.”.

(3) For Schedule 1 there shall be substituted the following Schedule—

“SCHEDULE 1

Regulation 11B

Provisions of the Social Security (General Benefit) Regulations (Northern Ireland) 1984 applied to invalid care allowance

<i>Regulation applied</i> (1)	<i>Subject Matter</i> (2)
2	Exceptions from disqualification for imprisonment, etc.
3	Suspension of payment of benefit during imprisonment, etc.
4	Interim payments by way of benefit under the Act
9	Payments of benefit and suspension of payments pending a decision on appeals or references, arrears and repayments”.

Amendment of the Social Security Benefit (Persons Residing Together) Regulations

8. In regulation 2(2)(a) of the Social Security Benefit (Persons Residing Together) Regulations (Northern Ireland) 1977⁽¹⁶⁾ (circumstances in which a person is to be treated as residing or not residing with another person or in which persons are to be treated as residing or not residing together)

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- (a) “or sickness benefit” and “or invalidity pension” shall be omitted;
 - (b) after “66 (increase of a disablement pension where the beneficiary is entitled to unemployment supplement)” there shall be inserted “or section 86A of the Social

⁽¹³⁾ S.R. 1976 No. 99; relevant amending regulations are S.R. 1977 No. 74 and S.R. 1994 No. 370

⁽¹⁴⁾ Regulation 11A is inserted by S.R. 1994 No. 370

⁽¹⁵⁾ S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 Nos. 299 and 317, S.R. 1986 No.340, S.R. 1987 Nos. 122 and 465 and S.R. 1992 No. 6

⁽¹⁶⁾ S.R. 1977 No. 166, amended by S.R. 1983 No. 36 and S.R. 1984 No. 317

Security Contributions and Benefits (Northern Ireland) Act 1992 (incapacity benefit: increase for adult dependents)”.

Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations

9. In Schedule 1 to the Social Security (Graduated Retirement Benefit)(No. 2) Regulations (Northern Ireland) 1978⁽¹⁷⁾ (which sets out sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966⁽¹⁸⁾ as continued in force by the regulations) in the proviso to section 35(9) for “sections 14(6) and 15(4) of the Act (rate of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age)” there shall be substituted “sections 25(5) and 30B(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁹⁾ (rate of unemployment benefit for persons over pensionable age) and regulations 11(1) and 18(6) of the Social Security (incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995⁽²⁰⁾ (rate of unemployment benefit and rate of incapacity benefit in transitional cases for persons over pensionable age)”.

Amendment of the Social Security (Widow’s and Widower’s Invalidity Pensions) Regulations

10.—(1) The Social Security (Widow’s and Widower’s Invalidity Pensions) Regulations (Northern Ireland) 1978⁽²¹⁾ shall be amended in accordance with paragraphs (2) to (5).

(2) For regulation 1(2) (interpretation) there shall be substituted the following paragraph—

“(2) In these regulations “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and other expressions shall have the same meaning as in that Act.”.

(3) Regulation 2 is hereby revoked.

(4) For regulation 3 (rates of Category A retirement pensions for certain widows and widowers) there shall be substituted the following regulation—

“3. Where the rate of a person’s Category A retirement pension falls to be determined under sections 40(6)(b) or 41(5)(b) of the Contributions and Benefits Act⁽²²⁾ it shall be equal to the higher of—

- (a) the weekly rate of incapacity benefit applicable to him under the said sections 40 and 41 immediately before he attained pensionable age or where there was no such rate, the rate specified in section 41(4) of the Contributions and Benefits Act; or
- (b) the rate of Category A retirement pension to which he would have been entitled apart from those sections,

whichever is more favourable to him having regard to the effect of section 52 of the Contributions and Benefits Act (special provision for surviving spouses).”.

(5) For regulation 4 (prescribed periods for the purposes of Article 18 of the Pensions Order) there shall be substituted the following regulation—

⁽¹⁷⁾ S.R. 1978 No. 105, to which there are amendments not relevant to these regulations

⁽¹⁸⁾ 1966 c. 6 (N.I.)

⁽¹⁹⁾ Section 30B is inserted by Article 4(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

⁽²⁰⁾ S.R. 1995 No. 35

⁽²¹⁾ S.R. 1978 No. 108

⁽²²⁾ Sections 40 and 41 are substituted by paragraphs 8 and 9 respectively of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994