STATUTORY RULES OF NORTHERN IRELAND

2017 No. 18

SOCIAL SECURITY

The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations (Northern Ireland) 2017

Made - - - -	*16th January 2017*
Laid before Parliament	*20th January 2017*
Coming into operation in accordance with regulation 1.	

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 2A(1), (3), (6) and (8), 2D(1), (4)(a), (b), (d), (f) and (h) and (5) to (8) and (9)(c), 2E(3)(a) and (b), (4), (5)(a) and (d), 2G(2)(a) and (4), 2H, 165(1) and (4) to (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(**1**), Articles 2, 10(1) and 11(3) and (6) of the Social Security (Northern Ireland) Order 1998(**2**), sections 11E(1)(a), 13(1) and (2)(a) and 24(1) of the Welfare Reform Act (Northern Ireland) 2007(**3**) and Articles 5, 25(1)(a) and 48(1) and (2) of the Welfare Reform (Northern Ireland) Order 2015(**4**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015(**5**).

(**1**) 1992 c. 8; ("the 1992 Act"); Section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and relevant amendments were made by sections 3 and 29 of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)); section 2A(8) is cited for the meaning of "specified", "work-focused interview" and "the designated authority"; sections 2D to 2H were inserted by section 2(2) of the Welfare Reform Act (Northern Ireland) 2010; section 167(1) is cited for the meaning of "prescribe" and "regulations".

(**2**) S.I. 1998/1506 (N.I. 10); Article 2 was amended by section 55(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)).

(**3**) 2007 c. 2 (N.I.); Section 11E was inserted by Article 63(2) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)); section 24(1) was amended by Article 63(4) of the Welfare Reform (Northern Ireland) Order 2015 and is cited for the meaning of "prescribed".

(**4**) S.I. 2015/2006 (N.I. 1). Article 5 is cited for the meaning of "prescribed" and "regulations".

(**5**) Functions under or for the purposes of the Social Security Administration (Northern Ireland) Act 1992 and the Social Security (Northern Ireland) Order 1998 are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations (Northern Ireland) 2017 and shall come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(**6**).

(2) In these Regulations—

"action plan" means an action plan given in accordance with regulation 3;

"benefit week" means any period of 7 days corresponding to the week in respect of which income support is due to be paid;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971(**7**).

(3) Whether a person is responsible for another and whether a child is to be treated as being a member of a person's household are to be determined in accordance with regulations 15 and 16 of the Income Support (General) Regulations (Northern Ireland) 1987(**8**).

(4) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

Work-Related Activity

Requirement to undertake work-related activity

2.—(1) The Department may require a person who satisfies the conditions in paragraph (2) to undertake work-related activity(**10**) as a condition of continuing to be entitled to the full amount of income support payable apart from these Regulations.

(2) The conditions referred to in paragraph (1) are that the person—

(a) is entitled to income support;

(b) is subject to a requirement imposed under section 2A of the Social Security Administration (Northern Ireland) Act 1992;

(c) is not a lone parent(**11**) of a child under the age of 3; and

(d) falls within paragraph 1(1) of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987(**12**) and no other paragraph within that Schedule.

(3) A requirement imposed under paragraph (1)—

(**6**) S.R. 2016 No. 216.
(**7**) 1971 c. 80.
(**8**) S.R. 1987 No.459.
(**9**) 1954 c. 33 (N.I.).
(**10**) 'work-related activity' has the meaning given in section 2D(9)(d) of the 1992 Act.
(**11**) 'lone parent' has the meaning given in section 2D(9)(b) of the 1992 Act.
(**12**) Paragraph 1 of S .R. 1987 No. 459 was substituted by regulation 2 of S.R. 2016 No. 67.

(a) must be reasonable in the view of the Department, having regard to the person's circumstances; and

(b) may not require the person to apply for a job or undertake work, whether as an employee or otherwise.

Notification of work-related activity

3.—(1) The Department must notify a person of a requirement to undertake work-related activity by including the requirement in a written action plan which is given to the person.

(2) The action plan must contain—

(a) particulars of the work-related activity which the person is to undertake; and

(b) any other information that the Department considers appropriate.

Requirement to undertake work-related activity at a certain time not to apply

4. The Department may determine that a requirement as to the time at, or by, which work-related activity is to be undertaken is not to apply, or is to be treated as not having applied, if in the view of the Department it would be, or would have been, unreasonable to require the person to undertake the activity at or by that time.

Reconsideration of action plans

5.—(1) A person may request the reconsideration of an action plan.

(2) On receipt of a request the Department must reconsider the action plan.

(3) A decision of the Department following a request must be in writing and given to the person.

Failure to undertake work-related activity

6.—(1) A person who is required to undertake work-related activity but fails to do so must show good cause for the failure before the end of 5 working days beginning on and including the date on which the Department gives notice to the person of the failure.

(2) The Department must determine whether a person who is required to undertake work-related activity has failed to do so and, if so, whether the person has shown good cause for the failure.

(3) In a case where within one month of the date on which the Department gave notice to a person of their failure to undertake work-related activity—

(a) the person brings new facts to the attention of the Department which could not reasonably have been brought to the attention of the Department within the period specified in paragraph (1); and

(b) those facts show that the person had good cause for failing to undertake work-related activity,

paragraph (1) applies with the modification that for the words "5 working days" there is substituted "one month".

(4) Where a notice under paragraph (1) is sent by post it is taken to have been received on the second working day after it is sent.

Good cause

7.—(1) Matters to be taken into account by the Department in determining whether a person has shown good cause for failing to undertake work-related activity for the purposes of regulation 6(2) include that—

(a) the person misunderstood the requirement to undertake work-related activity due to any learning, language or literacy difficulties of the person or any misleading information given to the person by the Department;

(b) the person was attending a medical or dental appointment, or accompanying someone for whom they have caring responsibilities to such an appointment, and it would have been unreasonable, in the circumstances, for the person to undertake work-related activity;

(c) the person had difficulties with their normal mode of transport and that no reasonable alternative was available;

(d) the established customs and practices of the religion to which the person belongs prevented the person undertaking work-related activity on that day or at that time;

(e) the person was attending an interview with an employer with a view to obtaining employment;

(f) the person was pursuing employment opportunities as a self-employed earner;

(g) the person, a dependant of the person or someone for whom the person provides care suffered an accident, sudden illness or relapse of a physical or mental health condition;

(h) the person was attending the funeral of a close friend or relative on the day fixed for the work-related activity;

(i) a disability from which the person suffers made it impracticable to attend at the time fixed for the work-related activity;

(j) childcare for a child who is a member of the person's household and for whom the person is responsible was not available on the day or at the time fixed for the work-related activity.

(2) In this regulation the term "self-employed earner" has the meaning set out in regulation 2(1) of the Income Support (General) Regulations (Northern Ireland) 1987.

Reduction of income support

8.—(1) Where the Department has determined that a person who was required to undertake work-related activity has failed to do so and has not shown good cause for that failure in accordance with regulation 6 (failure to undertake work-related activity), the amount of income support payable to the person is to be reduced in accordance with paragraph (2).

(2) Subject to paragraphs (3) and (4), the amount of the reduction of income support in relation to each failure is 20 per cent. of the amount applicable in respect of a single claimant for income support aged not less than 25 as prescribed in paragraph 1(1)(e) of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987.

(3) In any benefit week, the amount of income support payable to a person is not, by virtue of paragraph (1), to be reduced below 10 pence.

(4) The amount of income support payable to a person is not to be reduced in accordance with paragraph (1) if that amount—

(a) is, at the time a determination falls to be made in respect of the current failure, being paid at a reduced rate in accordance with paragraphs (1) and (2), regulations 7(3) and 8 of the Social Security (Work-focused Interviews for Lone Parents) Regulations (Northern

Ireland) 2001(**13**) or regulation 11(2)(c) of the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003(**14**); and

(b) was last reduced not more than 2 weeks before the date of the current failure.

(5) In this regulation—

"current failure" means a failure which, in relation to a person, may lead to a reduction in income support under paragraph (1) in relation to which the Department has not yet determined whether the amount of income support payable to the person is to be reduced in accordance with this regulation.

Circumstances where reduction under regulation 8(1) ceases to have effect

9.—(1) The reduction in income support under regulation 8(1) in respect of a failure to undertake work-related activity ceases to have effect in respect of a person from whichever is the earlier of—

(a) the date on which the person is no longer required to take part in a work-related activity as a condition of continuing to be entitled to the full amount of benefit which is payable apart from these Regulations; or

(b) the first day of the benefit week in which the person satisfies a compliance condition.

(2) In paragraph (1)(b), "compliance condition" means a requirement to—

(a) undertake work-related activity; or

(b) take part in a work-focused interview.

Restrictions on availability

10.—(1) Subject to paragraph (2), a person to whom regulation 2 applies may restrict the times at which they are required to undertake work-related activity.

(2) A person may not restrict the times at which they are required to undertake work-related activity by virtue of paragraph (1) to exclude—

(a) their child's normal school hours; or

(b) any period during which the person entrusts temporary supervision of their child to a person over the age of 18 (not including any period during which the child is provided with any form of health care).

(3) In this regulation, references to "their child" are to a child who is a member of the person's household and for whom the person is responsible.

Contracting out

11.—(1) Any function of the Department under this Part specified in paragraph (2) may be exercised by, or by employees of, such person (if any) as the Department may authorise for that purpose.

(2) The functions are any function under—

(a) regulation 2 (requirement to undertake work-related activity);

(b) regulation 3 (notification of work-related activity);

(c) regulation 4 (requirement to undertake work-related activity at a certain time not to apply);

(**13**) S.R. 2001 No. 152; regulation 7(3) was substituted by regulation 2(9)(b) of S.R. 2011 No. 368 and regulation 8 was amended by regulation 3(4) of S.R. 2011 No. 26, regulation 13(3) and Schedule 1 to S.R. 2011 No.357 and regulation 2(10) of S.R. 2011 No. 368.

(**14**) S.R. 2003 No. 274; regulation 11(2)(c) was amended by regulation 2(8)(b) of S.R. 2005 No. 443, regulation 15(3)(a) of S.R. 2011 No. 357 and regulation 3(10) of S.R. 2011 No. 368.