STATUTORY RULES OF NORTHERN IRELAND

2016 No. 240

SOCIAL SECURITY

The Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*6th June 2016*
Laid before Parliament	*13th June 2016*
Coming into operation in accordance with regulation 1(1)	

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 2(2), 11(6), 74(3) and (5) of the Social Security (Northern Ireland) Order 1998(**1**), and sections 12(2), (3) and (4), 13(2), (4) and (6), 16, 16A(**2**) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**3**).

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

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 and come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(**4**).

(2) These Regulations apply to a claimant only in relation to a failure to take part in a work-focused interview or to undertake work-related activity which occurs on or after the coming into operation of these Regulations.

(3) In these Regulations "the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations (Northern Ireland) 2008(**5**).

Amendment of Regulation 2 of the Employment and Support Allowance Regulations

2. In regulation 2(1) of the Employment and Support Allowance Regulations (interpretation) after the definition of "guaranteed income payment" insert—

(**1**) S.I. 1998/1506 (N.I. 10). Article 2(2) is cited for the meaning it gives to 'prescribe'
(**2**) Section 16A was inserted by Article 62 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1))
(**3**) 2007 c. 2 (N.I.)
(**4**) S.R. 2016 No. 216
(**5**) S.R. 2008 No. 280, relevant amending instrument is S.R. 2011 No. 265

""hardship payment" means an income-related employment and support allowance payable at a reduced rate in accordance with the provisions of regulation 64D;".

Amendment of Regulation 61 of the Employment and Support Allowance Regulations

3. In regulation 61 of the Employment and Support Allowance Regulations (failure to take part in a work-focused interview) omit paragraph (3)(**6**).

Amendment of Regulation 63 of the Employment and Support Allowance Regulations

4.—(1) Regulation 63 of the Employment and Support Allowance Regulations (reduction of employment and support allowance) is amended in accordance with paragraphs (2) to (4).

(2) For paragraph (2) substitute—

"(2) Subject to paragraph (3), the amount of the reduction in relation to each failure determination is 100 per cent. of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4.".

(3) In paragraph (3)(c)(**7**) for "amount of the work-related activity component as set out in part 4" substitute "prescribed amount for a single claimant as set out in paragraph 1(a) of Part 1".

(4) After paragraph (5) insert—

"(6) Subject to paragraph (10), the reduction is to have effect for—

(a) one week for each 7 day period during which the claimant fails to meet a compliance condition; and

(b) a further fixed period determined in accordance with paragraph (7).

(7) The length of the fixed period is—

(a) 1 week, where there has been no previous failure by the claimant which falls within paragraph (8);

(b) 2 weeks, where there has been only one previous failure by the claimant which falls within paragraph (8); or

(c) 4 weeks, where there have been two or more previous failures by the claimant and the most recent of those failures—

(i) falls within paragraph (8), and

(ii) resulted in a reduction that has effect for 2 weeks under sub-paragraph (b) or 4 weeks under this sub-paragraph, or would have done but for paragraph (3).

(8) A previous failure falls within this paragraph if—

(a) it relates to a failure for which a reduction was imposed under this regulation, or would have been but for paragraph (3);

(b) that failure occurred on or after XXth November 2016; and

(c) the date of that failure is within 52 weeks but not within 2 weeks of the date of the current failure.

(9) This paragraph applies where the claimant meets a compliance condition before the end of the period of one week after the date of the failure to which the failure determination relates.

(10) Where paragraph (9) applies, the claimant's employment and support allowance is reduced only for the fixed period set out in paragraph (7) applicable to the claimant.

(**6**) Paragraph (3) was substituted by regulation 10(6) of S.R. 2011 No. 265
(**7**) Paragraph (3) was amended by regulation 10(8)(b) of S.R. 2011 No. 265

(11) In this regulation—

"compliance condition" means—

(a) where the failure by the claimant relates to a requirement to take part in a work-focused interview, either—

(i) taking part in a work-focused interview, or

(ii) making an agreement with the Department to take part in a work-focused interview at an agreed date;

(b) where the failure by the claimant relates to a requirement to undertake work-related activity, either—

(i) undertaking the activity specified in the action plan, or

(ii) where so notified by the Department, undertaking an alternative activity, or

(iii) making an agreement with the Department to undertake the activity referred to in paragraph (i) or (ii) at an agreed date;

"current failure" means a failure which may lead to a reduction under this regulation in relation to which the Department has not yet determined whether the amount of the employment and support allowance payable to the claimant is to be reduced in accordance with this regulation.".

Amendment of Regulation 64 of the Employment and Support Allowance Regulations

5. In regulation 64 of the Employment and Support Allowance Regulations (cessation of reduction) omit sub-paragraph (a) in each of paragraphs (1)(**8**), (1A)(**9**) and (2)(**10**).

Further amendments of the Employment and Support Allowance Regulations

6. After regulation 64 of the Employment and Support Allowance Regulations (cessation of reduction) insert—

"**Hardship payments**

64A. The Department must make a hardship payment to a claimant only where—

(a) The Department is satisfied that the claimant is or will be in hardship unless a hardship payment is made;

(b) the claimant's employment and support allowance has been reduced in accordance with regulation 63;

(c) the claimant meets the conditions of entitlement to an income-related employment and support allowance;

(d) the claimant completes and submits an application—

(i) approved for the purpose by the Department, or in such other form as the Department accepts as sufficient, and

(ii) in such manner as the Department determines; and

(e) the claimant provides such information or evidence as the Department may require, in such manner as the Department determines.

(**8**) Paragraph (1) was substituted by regulation 10(9)(a) of S.R. 2011 No. 265
(**9**) Paragraph (1A) was inserted by regulation 10(9)(b) of S.R. 2011 No. 265
(**10**) Paragraph (2) was amended by regulation 10(9)(c) of S.R. 2011 No. 265