STATUTORY RULES OF NORTHERN IRELAND

2015 No. 138

SOCIAL SECURITY

The Jobseeker's Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2015

Made - - - - *6th March 2015*

Coming into operation *30th March 2015*

Approved by resolution of the Assembly on 15th June 2015

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 167D and 171(3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), Articles 8(4), 9(4) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**2**), Articles 10(1), 11(6) and 74(1) of the Social Security (Northern Ireland) Order 1998(**3**), and now vested in it(**4**), sections 24(2) and 25(2) of, and paragraph 1 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(**5**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Jobseeker's Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2015 and shall come into operation on 30th March 2015.

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Jobseeker's Allowance Regulations

2.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**7**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 14(1) (circumstances in which a person is to be treated as available)—

(**1**) 1992 c. 7; Section 167D was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), section 171(5) was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and Schedule 3 of the Jobseekers (Northern Ireland) Order (S.I. 1995/2705 (N.I. 15)

(**2**) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 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 (c. 21)

(**4**) *See* Article 8(b) of S.R. 1999 No. 481

(**5**) 2007 c. 2 (N.I.); paragraph 2 of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995 provides that questions about whether a person has limited capability for work are to be determined for the purposes of that Order in accordance with Part 1 of the Welfare Reform Act (Northern Ireland) 2007

(**6**) 1954 c. 33 (N.I.)

(**7**) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 358, S.R. 2004 No. 308, S.R. 2008 No. 286, S.R. 2010 No. 347 and S.R. 2011 No. 135

(a) in sub-paragraph (k)(**8**) after "regulation 55 (short periods of sickness)" insert "55ZA (extended period of sickness) or 55A (periods of sickness and persons receiving treatment outside Northern Ireland)"; and

(b) omit sub-paragraph (kk)(**9**).

(3) In regulation 19(1) (circumstances in which a person is to be treated as actively seeking employment) after sub-paragraph (k)(**10**) insert—

"(kzk) in any week during which he is treated as capable of work or as not having limited capability for work under regulation 55ZA (extended period of sickness) unless it would be reasonable for him to take steps in that week to seek employment and he has not taken such steps;".

(4) In regulation 55 (short periods of sickness)—

(a) in paragraph (1)—

(i) for "(4)" substitute "(6)", and

(ii) in sub-paragraph (c)(**11**) for "but for his disease or disablement, would satisfy" substitute "during the period of his disease or disablement, satisfies";

(b) in paragraph (3) for "Paragraphs (1) and (2) shall" substitute "Paragraph (1) does";

(c) in paragraph (4)(**12**) for "Paragraphs (1) to (3) shall" substitute "Paragraph (1) does";

(d) in paragraph (5)(**13**) for "The preceding provisions of this regulation shall" substitute "Paragraph (1) does"; and

(e) after paragraph (5) add—

"(6) Paragraph (1) does not apply to any person—

(a) during any period where the person is treated as capable of work or as not having limited capability for work under regulation 55ZA (extended period of sickness); or

(b) where the first day in respect of which that person would, apart from this sub-paragraph, have been treated as capable of work or as not having limited capability for work under this regulation falls immediately after the last day on which the person is so treated under regulation 55ZA.".

(5) After regulation 55 insert—

"**Extended period of sickness**

55ZA.—(1) This regulation applies to a person who—

(a) has been awarded a jobseeker's allowance;

(b) proves to the satisfaction of the Department that he is unable to work on account of some specific disease or disablement;

(c) either—

(i) declares that he has been unable to work, or expects to be unable to work, on account of that disease or disablement for more than 2 weeks but he does not

(**8**) Sub-paragraph (k) was amended by regulation 19(4)(a) of S.R. 2008 No. 286
(**9**) Sub-paragraph (kk) was inserted by regulation 3(2)(a) of S.R. 2004 No. 308 and amended by regulation 19(4)(a) of S.R. 2008 No. 286
(**10**) Sub-paragraph (k) was amended by regulation 19(5) of S.R. 2008 No. 286
(**11**) Sub-paragraph (c) was amended by regulation 17(3) of S.R. 1996 No. 358 and regulation 19(9)(a)(i) of S.R. 2008 No. 286
(**12**) Paragraph (4) was amended by regulation 4(2) of S.R. 2010 No. 347 and regulation 7(2) of S.R. 2011 No. 135
(**13**) Paragraph (5) was added by regulation 3(5) of S.R. 2004 No. 308

expect to be unable to work on account of that disease or disablement for more than 13 weeks; or

(ii) is not a person to whom regulation 55(1) (short periods of sickness) applies by virtue of paragraph (3) of that regulation;

(d) during the period of his disease or disablement, satisfies the requirements for entitlement to a jobseeker's allowance other than those specified in Article 3(2)(a), (c) and (f) (availability for and actively seeking employment and capable of work or not having limited capability for work); and

(e) has not stated in writing that for the period of his disease or disablement he proposes to claim or has claimed an employment and support allowance.

(2) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(i) applies is—

(a) evidence of incapacity for work or limited capability for work in accordance with the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(**14**) (which prescribe the form of a doctor's statement or other evidence in each case); and

(b) any such additional information as the Department may request.

(3) The evidence which is required for the purposes of paragraph (1)(b) in a case where paragraph (1)(c)(ii) applies is a declaration made by the person in writing, in a form approved for the purposes by the Department, that the person has been unfit for work from a date or for a period specified in the declaration.

(4) Subject to the following paragraphs, a person to whom this regulation applies is to be treated as capable of work or as not having limited capability for work for the continuous period beginning on and including the first day on which he is unable to work on account of the disease or disablement ("the first day") and ending on—

(a) the last such day; or

(b) if that period would otherwise exceed 13 weeks, the day which is 13 weeks after the first day.

(5) This regulation does not apply to a person on more than one occasion in any one period of 12 months starting on and including the first day applying for the purpose of paragraph (4).

(6) Paragraphs (4) and (5) of regulation 55 apply for the purposes of this regulation as they apply for the purposes of paragraph (1) of regulation 55.".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**15**) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 3(5H)(**16**) (revision of decisions) insert—

"(5I) A decision by the Department under Article 9 awarding an employment and support allowance may be revised at any time where—

(a) it is made immediately following the last day of a period for which the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of the Jobseeker's Allowance Regulations (extended period of sickness) and that period lasted 13 weeks; and

(**14**) S.R. 1976 No. 175
(**15**) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2008 No. 286, S.R. 2010 No. 200 and S.R. 2011 No. 357
(**16**) Regulation 3(5H) was inserted by regulation 12(b) of S.R. 2011 No. 357