STATUTORY RULES OF NORTHERN IRELAND

2009 No. 418

SOCIAL SECURITY

The Income Support (Prescribed Categories of Person) Regulations (Northern Ireland) 2009

Made - - - -	*15th December 2009*
Coming into operation	*30th December 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a), 123(1)(d) and (e) and 171(1) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (Prescribed Categories of Person) Regulations (Northern Ireland) 2009 and shall come into operation on 30th December 2009.

(2) In these Regulations "the appointed day" means 30th December 2009.

(3) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Assembly.

Revocation and Savings

2.—(1) Subject to paragraph (2), the following provisions of the Income Support (General) Regulations (Northern Ireland) 1987(**4**) are revoked—

(a) regulation 13(2)(b) and (bb)(**5**) (circumstances in which persons in relevant education are to be entitled to income support);

(b) paragraphs 7(a) and (b) (persons incapable of work), 10(**6**) (disabled students), 12(**7**) (deaf students) and 13 (blind persons) of Schedule 1B(**8**) (prescribed categories of person).

(**1**) 1992 c. 7; section 123(1)(d) was substituted by paragraph 13(4) and section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and the word "and" was repealed by Schedule 3 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

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

(**3**) 1954 c. 33 (N.I.)

(**4**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 No. 146, S.R. 1990 No. 297, S.R. 1995 No. 67, S.R. 1996 Nos. 199 and 405, S.R. 1997 No. 412, S.R. 2000 Nos. 241 and 242, S.R. 2006 No. 128 and S.R. 2009 No. 92

(**5**) Sub-paragraphs (b) and (bb) were substituted by regulation 2(3)(b) of S.R. 2006 No. 128

(**6**) Paragraph 10 was amended by the Schedule to, S.R. 2000 No. 241

(**7**) Paragraph 12 was substituted by regulation 2(7) of S.R. 2000 No. 242

(2) A provision referred to in paragraph (1) ("a relevant provision") continues to have effect in relation to a person ("P")—

(a) who immediately before the appointed day, is entitled to an award of income support on the basis of a relevant provision, or

(b) whose claim for income support falls within regulation 2(2)(b)(**9**), (c) or (d)(**10**) (claim for an existing benefit) of the Employment and Support Allowance (Transitional Provisions) Regulations (Northern Ireland) 2008(**11**), or

(c) to whom paragraph (4) applies.

(3) For the purposes of paragraph (2)(a), P is entitled to an award of income support on the basis of a relevant provision only where—

(a) before the appointed day the Department determined that a relevant provision applies to P, or

(b) in the cases to which regulation 6(**12**) (information required for determining capacity for work) or 28(**13**) (conditions for treating a person as incapable of work until the personal capability assessment is carried out) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**14**) applies, before the appointed day the Department was—

(i) provided with the evidence or satisfied on the basis of the information required by regulation 6 of those Regulations, or

(ii) provided with the evidence required by regulation 28(2)(a) of those Regulations and the condition in regulation 28(2)(b) was satisfied, or

(c) in any case to which the regulations referred to in sub-paragraph (b) do not apply, the Department—

(i) before the appointed day received notification from P stating that a relevant provision applies to P, and

(ii) determines on or after that date that the provision concerned applies to P.

(4) This paragraph applies to a person where—

(a) that person had an award of income support which was terminated on or after 27th October 2008;

(b) a relevant provision applied to the person immediately before the award was terminated;

(c) the decision to terminate that award was made as a result of official error, and

(d) that decision is subsequently revised by reason of that error.

(5) In paragraph (4)(c) "official error" has the meaning given in regulation 1(2) (citation, commencement and interpretation) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**15**).

(**8**) Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199
(**9**) Regulation 2(2)(b) was amended by regulation 2(a) of S.R. 2008 No.429
(**10**) Regulation 2(2)(d) was added by regulation 2(b) of S.R. 2008 No. 429
(**11**) S.R. 2008 No. 283; relevant amending Regulations are S.R. 2008 No. 429
(**12**) Regulation 6 was amended by regulation 4(2) of S.R. 1995 No. 149, regulation 25(2) of S.R. 1996 No. 289, regulation 2(3) of S.R. 2000 No. 4 and regulation 7(2) of S.R. 2000 No. 109
(**13**) Regulation 28 was amended by regulation 4(10) of S.R. 1995 No. 149, regulation 4(9) of S.R. 1996 No. 601 and regulation 2(14) of S.R. 2000 No. 4
(**14**) S.R. 1995 No. 41; relevant amending Regulations are S.R. 1995 No. 149, S.R. 1996 Nos. 289 and 601 and S.R. 2000 Nos. 4 and 109
(**15**) S.R. 1999 No. 162; the definition of "official error" was substituted by paragraph 2(b) of Schedule 4 to S.R. 2001 No. 176 and amended by regulation 2(2)(a) of S.R. 2002 No. 189