STATUTORY RULES OF NORTHERN IRELAND

2008 No. 490

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 6) Regulations (Northern Ireland) 2008

Made - - - -	*5th December 2008*
Coming into operation	*5th January 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 28(2) of the Welfare Reform Act (Northern Ireland) 2007(**1**) and sections 5(4)(a) and (b) and 9(3) of the Mesothelioma, etc., Act (Northern Ireland) 2008(**2**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 6) Regulations (Northern Ireland) 2008 and shall come into operation on 5th January 2009.

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

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

(2) In regulation 36 (composition of appeal tribunals)—

(a) in paragraph (2)(a)(**4**) for head (i) substitute—

"(i) the appeal involves the personal capability assessment, the limited capability for work assessment or the determination of limited capability for work-related activity,"; and

(b) for paragraph (7)(**5**) substitute—

"(7) In paragraph (2)(a)(i)—

(**1**) 2007 c. 2 (N.I.)
(**2**) 2008 c. 9 (N.I.)
(**3**) S.R. 1999 No. 162; relevant amending Rules are S.R. 1999 Nos. 242, 272 and 473, S.R. 2000 No. 215, S.R. 2004 No. 516, S.R. 2007 No. 142 and S.R. 2008 No. 286
(**4**) Paragraph (2) was substituted by regulation 2(a) of S.R. 1999 No. 242 and amended by regulation 2(4) of S.R. 1999 No. 473, regulation 6(11) of S.R. 2000 No. 215, regulation 3(4)(a) of S.R. 2004 No. 516 and Article 2 of S.R. 2007 No. 142
(**5**) Paragraph (7) was added by regulation 2(c) of S.R. 1999 No. 242 and amended by regulation 6(11)(c) of S.R. 2000 No. 215

"determination of limited capability for work-related activity" shall be construed in accordance with regulations 34 and 35 of the Employment and Support Allowance Regulations;

"limited capability for work assessment" has the same meaning as in regulation 2(1) of the Employment and Support Allowance Regulations;

"personal capability assessment" has the same meaning as in regulation 2(1) of the Incapacity for Work Regulations(**6**).".

(3) In regulation 41(**7**) (medical examination required by appeal tribunal)—

(a) omit "or" after paragraph (h); and

(b) after paragraph (i) add—

"or

(j) is whether a person has limited capability for work or work-related activity for the purposes of the Welfare Reform Act.".

Amendment of the Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations

3. After regulation 5 of the Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations (Northern Ireland) 2008(**8**) (appeal treated as reconsideration) add—

"**Appeals**

6.—(1) Subject to paragraph (2), the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 apply to an appeal—

(a) against a determination made by the Department—

(i) on a claim, or

(ii) on a reconsideration under section 4 of the Mesothelioma, etc., Act (Northern Ireland) 2008 of a determination made on a claim,

as they apply to an appeal under Article 13 of the Social Security (Northern Ireland) Order 1998(**9**); and

(b) to a Commissioner under section 6 of that Act against a decision of an appeal tribunal as they apply to an appeal under Article 13 or 14 of that Order(**10**).

(2) Regulation 36(2)(a) of those Regulations applies in relation to the composition of an appeal tribunal where the appeal arises under section 5(1) of that Act.".

Revocations

4. Regulation 2(c) of the Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 1999(**11**) and regulation 6(11)(c) of the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2000(**12**) are revoked.

(**6**) The definition of "personal capability assessment" was inserted by regulation 2(2)(b) of S.R. 2000 No. 4
(**7**) Regulation 41 was amended by regulation 2(5) of S.R. 1999 No.272
(**8**) S.R. 2008 No. 353
(**9**) S.I. 1998/1506 (N.I. 10); Article 13 was amended by paragraph 19 of Schedule 6 and Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(**10**) Article 14 was amended by paragraph 20 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999
(**11**) S.R. 1999 No. 242
(**12**) S.R. 2000 No. 215