STATUTORY RULES OF NORTHERN IRELAND

2006 No. 150

SOCIAL SECURITY

The Social Security (Incapacity for Work) (Amendment) Regulations (Northern Ireland) 2006

Made - - - -	*22nd March 2006*
Coming into operation	*10th April 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 167D and 171(1), (3) 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 Social Security (Incapacity for Work) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 10th April 2006.

(2) In these regulations the "principal Regulations" means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**3**).

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 13A(**4**) (welfare to work beneficiary)—

(a) in paragraph (1)(d)(i)—

(i) for "within a period of" there shall be substituted "not later than", and

(ii) after "he" there shall be inserted "expects to be, or (as the case may be)"; and

(b) in paragraph (4) for the definition of "immediate past period of incapacity for work" there shall be substituted the following definition—

""immediate past period of incapacity for work" means—

(**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)) and 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**) S.R. 1995 No. 41; relevant amending Rules are S.R. 1995 No. 149, S.R. 1996 No. 601, S.R. 1997 No. 174, S.R. 1998 No. 324, S.R. 1999 No. 428 (C. 32), S.R. 2000 Nos. 4 and 109, S.R. 2002 No. 86 and S.R. 2005 No. 415

(**4**) Regulation 13A was inserted by regulation 4(2) of S.R. 1998 No. 324 and amended by regulation 2(6) of S.R. 2000 No. 4

(a) a period of incapacity for work under section 30C(1)(**5**);

(b) a period of incapacity for work under section 148; or

(c) a term composed of a period of incapacity for work under section 30C(1) and a period of incapacity for work under section 148 and includes any two such periods of incapacity for work which are separated by a period of not more than 8 weeks.".

(3) For regulation 16(**6**) (person who works to be treated as capable of work) there shall be substituted the following regulation—

"**16.**—(1) A person shall be treated as capable of work on each day of any week during which he does work.

(2) Paragraph (1) applies even if—

(a) it has been determined that he is, or is to be treated under any of regulations 10 to 15 or regulation 27(**7**) as, incapable of work; or

(b) he meets the conditions set out in regulation 28(2)(**8**) for treating a person as incapable of work in accordance with the personal capability assessment until a determination has been made in accordance with that assessment.

(3) Paragraph (1) does not apply to—

(a) work as a councillor disregarded under section 167F(**9**);

(b) approved work under regulation 10A(**10**);

(c) care of a relative or domestic tasks carried out in his own home;

(d) any activity he undertakes during an emergency solely to protect another person or to prevent serious damage to property or livestock; or

(e) any of the categories of work set out in regulation 17 (exempt work).

(4) This regulation is subject to regulation 13(3) (person receiving certain regular treatment).

(5) A person who does work to which this regulation applies in a week which is—

(a) the week in which he first becomes entitled to a benefit, allowance or advantage on account of his incapacity for work in any period; or

(b) the last week in any period in which he is incapable of work,

shall be treated as capable of work by virtue of paragraph (1) only on the actual day or days in that week on which he does that work.

(6) In this regulation—

"week" means a period of 7 days beginning with Sunday,

"work" means any work which a person does, whether or not he undertakes it in expectation of payment.".

(4) For regulation 17(**11**) (exempt work) there shall be substituted the following regulation—

(**5**) Section 30C was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**6**) Regulation 16 was amended by regulation 4(4) of S.R. 1995 No. 149, regulation 4(4) of S.R. 1996 No. 601, regulation 2(8) of S.R. 2000 No. 4 and regulation 7(4) of S.R. 2000 No. 109

(**7**) Relevant amending Regulations are S.R. 1995 No. 149, S.R. 1996 No. 601, S.R. 1997 No. 174, S.R. 1998 No. 324, S.R. 2000 Nos. 4 and 109, S.R. 2002 No. 86 and S.R. 2005 No. 15

(**8**) Paragraph (2) was amended by regulation 4(10) of S.R. 1995 No. 149 and regulation 4(9) of S.R. 1996 No. 601

(**9**) Section 167F was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**10**) Regulation 10A was inserted by regulation 7(3) of S.R. 2000 No. 109 and amended by regulation 2(2) of S.R. 2002 No. 86

(**11**) Regulation 17 was amended by Article 8(3) of S.R. 1999 No. 428 (C. 32), regulation 2(3) of S.R. 2002 No. 86 and regulation 4 of S.R. 2005 No. 415

"**17.**—(1) The categories of work referred to in regulation 16(3)(e) are set out in the following paragraphs.

(2) Work for which the earnings in any week do not exceed £20·00.

(3) Work for which the earnings in any week do not exceed £81·00 and which—

(a) is part of a treatment programme and is done under medical supervision while the person doing it is an in-patient, or is regularly attending as an out-patient, of a hospital or similar institution; or

(b) is supervised by a person employed by a public authority or voluntary organisation engaged in the provision or procurement of work for persons who have disabilities.

(4) Work which is done for less than 16 hours a week, for which earnings in any week do not exceed £81·00 and which—

(a) is done during a 52 week period beginning on the first day on which the work is done, provided that—

(i) the person has not previously done specified work,

(ii) since the beginning of the last period of specified work, he has ceased to be entitled to a relevant benefit for a continuous period exceeding 8 weeks, or

(iii) not less than 52 weeks have elapsed since he previously did specified work; or

(b) is done by a person who is treated as incapable of work under—

(i) regulation 10 (certain persons with a severe condition to be treated as incapable of work), or

(ii) regulation 31(3) and (5)(c) to (k) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(**12**) (persons treated as incapable of work).

(5) Work done in the course of receiving assistance in pursuing self-employed earner's employment whilst participating in a programme provided or other arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950(**13**) (general functions of the Department for Employment and Learning as to employment and training for employment).

(6) Work done as a volunteer.

(7) Duties undertaken on not more than one day a week as—

(a) a member of the Disability Living Allowance Advisory Board; or

(b) a panel member with a disability qualification, as defined in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**14**), acting as a member of an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998(**15**).

(8) In this regulation—

"less than 16 hours a week" means—

(**12**) S.R. 1995 No. 35; paragraph (3) was amended by regulation 5(2)(b) of S.R. 2000 No. 4 and paragraph (5) was amended by regulation 3(8)(b) of S.R. 1995 No. 149 and regulation 3(5)(b) of S.R. 1996 No. 601

(**13**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(**14**) S.R. 1999 No. 162, to which there are amendments not relevant to these Regulations

(**15**) S.I. 1998/1506 (N.I. 10)