STATUTORY RULES OF NORTHERN IRELAND

2000 No. 4

SOCIAL SECURITY

The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000

Made - - - -	*26th January 2000*
Coming into operation	*3rd April 2000*

The Department for Social Development, in exercise of the powers conferred by sections 167A, 167C, 167D and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Article 75(5) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made by virtue of, or consequential upon, Article 58 of, and paragraph 22(2) of Schedule 8 to, that Order and which is made before the end of the period of six months beginning with the coming into operation of those provisions(**4**), hereby makes the following Regulations:

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 2000 and shall come into operation on 3rd April 2000.

(2) In these Regulations "the General Regulations" means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**5**).

(**1**) 1992 c. 7; section 167A was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and is amended by paragraph 22 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 167C was inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and is substituted by Article 58 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and section 167D was inserted by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(**2**) S.I. 1999/3147 (N.I. 11)

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

(**4**) *See* section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(**5**) S.R. 1995 No. 41; relevant amending regulations are S.R. 1995 No. 149, S.R. 1996 Nos. 289 and 601 and S.R. 1998 No. 324

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

Part II

Incapacity for Work Amendments

Amendment of the General Regulations

2.—(1) The General Regulations shall be amended in accordance with paragraphs (2) to (14).

(2) In regulation 2(1) (interpretation)—

(a) the definition of "the all work test" shall be omitted; and

(b) after the definition of "the own occupation test" there shall be inserted the following definition—

""personal capability assessment" means the assessment defined in Part III;".

(3) In regulation 6(**7**) (information required for determining capacity for work)—

(a) in paragraph (1) after "work" there shall be inserted ", and the information or evidence required which is capable of being used for assisting or encouraging a person to obtain work or to enhance his prospects of obtaining it,";

(b) in paragraph (1)(*a*)—

(i) the words "or the all work test" shall be omitted; and

(ii) after "applies," there shall be inserted "or where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment,";

(c) for paragraph (1)(*b*) there shall be substituted—

"(b) where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment, such information—

(i) relating to a person's ability to perform the activities referred to in the Schedule, or

(ii) capable of being used for assisting or encouraging a person to obtain work or to enhance his prospects of obtaining it,

as the Department may request in the form of a questionnaire;";

(d) in paragraph (1)(*c*) for "relating to the relevant test" there shall be substituted "as is capable of being used for the purpose referred to in sub-paragraph (*b*)(ii), or relating to the own occupation test or the personal capability assessment";

(e) in paragraph (2) for "paragraph (1)(*b*)" there shall be substituted "paragraph (1)(*b*)(i)"; and

(f) after paragraph (3) there shall be added the following paragraph—

"(4) Information requested for the purpose referred to in paragraph (1)(*b*)(ii) shall not be used for the purposes of determining whether a person is capable or incapable of work in accordance with Part XIIA of the Contributions and Benefits Act.".

(4) In regulation 8(1) (person may be called for a medical examination) for "Where a question arises as to" there shall be substituted "Where it falls to be determined".

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

(**7**) Regulation 6 was amended by regulation 4(2) of S.R. 1995 No. 149 and regulation 25(2) of S.R. 1996 No. 289

(5) In regulation 10(1)(**8**) (certain persons with a severe condition to be treated as incapable of work) for "Where the all work test applies" there shall be substituted "Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment".

(6) In regulation 13A(**9**) (welfare to work beneficiary)—

(a) in paragraph (1)(*d*)(ii)—

(i) for "an assessment made in respect of the all work test or a determination in respect of the own occupation test" there shall be substituted "a determination made in respect of the personal capability assessment or the own occupation test"; and

(ii) the words "assessment or" shall be omitted; and

(b) in paragraph (2)(*c*)(i) for "satisfied the all work test in accordance with Part III" there shall be substituted "determined to be incapable of work in accordance with the personal capability assessment under Part III".

(7) In regulation 14(*a*)(ii) (pregnancy) for "where the all work test applies" there shall be substituted "where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment".

(8) In regulation 16(1)(**10**) (person who works to be treated as capable of work) for "the all work test as satisfied until assessment" there shall be substituted "a person as incapable of work in accordance with the personal capability assessment until a determination has been made in accordance with that assessment".

(9) In regulation 17A(**11**) (person who claims unemployment benefit to be treated as capable of work)—

(a) for "Where the all work test applies" there shall be substituted "Where the question of whether a person is capable or incapable of work falls to be determined in accordance with the personal capability assessment"; and

(b) for "satisfies that test" there shall be substituted "is incapable of work in accordance with the personal capability assessment".

(10) In the heading to Part III for "ALL WORK TEST" there shall be substituted "PERSONAL CAPABILITY ASSESSMENT".

(11) For regulation 24 (the all work test) there shall be substituted the following regulation—

"**The personal capability assessment**

24. For the purposes of section 167C(2)(a) the personal capability assessment is an assessment of the extent to which a person who has some specific disease or bodily or mental disablement is capable of performing the activities prescribed in the Schedule, or is incapable by reason of such disease or bodily or mental disablement of performing those activities.".

(12) For regulation 25(1) (assessment under the all work test) there shall be substituted—

"**Incapacity under the personal capability assessment**

25.—(1) For the purposes of section 167C(2)(b) a person is incapable of work in accordance with the personal capability assessment when one or more of the descriptors in Part I or Part II apply to him if, by adding the points listed in column (3) of the Schedule against the descriptor, he obtains a total score of at least—

(**8**) Regulation 10(1) was amended by regulation 4(3)(*a*) of S.R. 1995 No. 149
(**9**) Regulation 13A was inserted by regulation 4(2) of S.R. 1998 No. 324
(**10**) Regulation 16(1) was amended by regulation 4(4) of S.R. 1995 No. 149
(**11**) Regulation 17A was inserted by regulation 4(6) of S.R. 1995 No. 149 and amended by regulation 25(3) of S.R. 1996 No. 289