STATUTORY RULES OF NORTHERN IRELAND

1999 No. 267

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT
PENSIONS

The Social Security and Child Support (Decisions and Appeals) (Amendment No. 2) Regulations (Northern Ireland) 1999

Made - - - -	*11th June 1999*
Coming into operation	*5th July 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 10(1) and (4), 11(3) and (6), 21(1)(b) and 74(1), (3) and (5) of the Social Security (Northern Ireland) Order 1998(**1**) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of that Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) (Amendment No. 2) Regulations (Northern Ireland) 1999 and shall come into operation on 5th July 1999.

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(**2**) shall be amended in accordance with paragraphs (2) to (7).

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

(a) after the definition of "the date of notification" there shall be inserted the following definitions—

> ""disability benefit decision" means a decision to award a relevant benefit embodied in or necessary to which is a disability determination;
>
> "disability determination" means—

(**1**) S.I.1998/1506 (N.I. 10)
(**2**) S.R. 1999 No. 162, to which there are amendments not relevant to these regulations

(a) in the case of a decision as to an award of an attendance allowance or a disability living allowance, whether the person satisfies any of the conditions in section 64 or, as the case may be, 72(1) or 73(1) to (3) of the Contributions and Benefits Act;

(b) in the case of a decision as to an award of severe disablement allowance, whether the person is disabled for the purpose of section 68 of that Act; or

(c) in the case of a decision as to an award of industrial injuries benefit, whether the existence or extent of any disablement is sufficient for the purposes of section 103 or 108 of that Act or for the benefit to be paid at the rate which was in payment immediately prior to that decision;";

(b) after the definition of "financially qualified panel member" there shall be inserted the following definitions—

""incapacity benefit decision" means a decision to award a relevant benefit embodied in or necessary to which is a determination that a person is or is treated as incapable of work under Part XIIA of the Contributions and Benefits Act(**3**);

"incapacity determination" means a determination whether a person is incapable of work by virtue of the all work test (as defined in regulation 2(1) of the Incapacity for Work Regulations) or whether a person is treated as incapable of work in accordance with regulation 10 or 27 of those Regulations;

"the Incapacity for Work Regulations" means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**4**);"; and

(c) after the definition of "party to the proceedings" there shall be inserted the following definition—

""payee" means a person to whom a benefit referred to in the definition of "disability determination" or "incapacity benefit decision" is payable;".

(3) In regulation 3(5) (revision of decisions)—

(a) in sub-paragraph (b) at the beginning there shall be inserted the words "except in a case to which sub-paragraph (c) applies,"; and

(b) after sub-paragraph (b) there shall be added—

"or

(c) where the decision is a disability benefit decision, or is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision), which was made in ignorance of, or was based on a mistake as to, some material fact in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination and—

(i) as a result of that ignorance of, or mistake as to, that fact, the decision was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake, and

(ii) the Department is satisfied that the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,".

(4) In regulation 6(2) (supersession of decisions) after sub-paragraph (f) there shall be added—

(**3**) Part XIIA was inserted by Articles 7 and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(**4**) S.R. 1995 No. 41; relevant amending regulations are S.R. 1995 No. 149, S.R. 1996 No. 601 and S.R. 1997 No. 174