STATUTORY RULES OF NORTHERN IRELAND

1996 No. 601

SOCIAL SECURITY

The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations (Northern Ireland) 1996

Made - - - -	*20th December 1996*
Coming into operation	*6th January 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 167A(2), 167C, 167D, 167E and 171(2) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 59A(4) and 71 of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 6, 9 and 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**3**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations (Northern Ireland) 1996 and shall come into operation on 6th January 1997.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Amendment of the Social Security (Overlapping Benefits) Regulations

2. In regulation 4 of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**5**) (adjustment of personal benefit under Parts II and III of the Contributions and Benefits Act where other personal benefit under those Parts or graduated retirement benefit is payable) after paragraph (5) there shall be added the following paragraph—

(**1**) 1992 c. 7; sections 167A and 167C were inserted by Article 7 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12)); sections 167D and 167E were inserted by Article 8(1) of that Order

(**2**) 1992 c. 8; section 59A was inserted by Article 8(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and section 71 was amended by paragraph 32 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(**3**) S.I. 1994/1898 (N.I. 12)

(**4**) 1954 c. 33 (N.I.)

(**5**) S.R. 1979 No. 242; regulation 4 was amended by Article 19(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); that Article was repealed by the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) but its effect was saved by paragraph 11 of Schedule 3 to that Act; relevant amending regulations are S.R. 1984 No. 317, S.R. 1992 Nos. 6 and 557, S.R. 1995 No. 150 and S.R. 1996 No. 289

"(6) For the purposes of this regulation—

"additional pension" means a pension payable with a personal benefit under Part II of the Contributions and Benefits Act or an additional rate;

"additional rate" means an additional amount equal to the rate paid or payable as an additional pension with invalidity benefit immediately before 13th April 1995 which is payable after that date pursuant to regulation 18 of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(**6**) (rate of long-term incapacity benefit in transitional cases).".

Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations

3.—(1) The Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(**7**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 11 (transitional awards of short-term incapacity benefit)—

(a) in paragraph (4) at the beginning there shall be inserted "Subject to paragraph (5),";

(b) after paragraph (4) there shall be added the following paragraph—

"(5) Where paragraph (4) applies to a person whose transitional award of short-term incapacity benefit was in respect of a personal injury of a kind mentioned in section 94(1) of the Contributions and Benefits Act, he shall be entitled to long-term incapacity benefit only if his incapacity for work continues to result from that personal injury.".

(3) In regulation 17(3) (transitional awards of long-term incapacity benefit) at the end there shall be added "or until the first day on which he is entitled to retirement pension, whichever date is the earlier".

(4) In regulation 18 (rate of long-term incapacity benefit in transitional cases)—

(a) in paragraph (1)(*c*) for "by virtue of section 34" there shall be substituted "pursuant to section 34(3)";

(b) in paragraph (3) the words from "and he shall" to the end shall be omitted;

(c) in paragraph (6) at the end there shall be added "or until the first day on which he is entitled to retirement pension, whichever date is the earlier".

(5) In regulation 31 (application of the new tests of incapacity for work)—

(a) in paragraph (1) for the words from "and on" to "to him," there shall be substituted "and he continues to be incapable of work on or after the appointed day, the all work test shall apply to him, but";

(b) in paragraph (5)(*h*)—

(i) for "a doctor approved by the Department has certified that a person is suffering from any of the following conditions" there shall be substituted "a person is suffering from any of the following conditions, and there exists medical evidence that he is suffering from any of them";

(ii) for head (viii) there shall be substituted the following head—

"(viii) a severe mental illness, involving the presence of mental disease, which severely and adversely affects a person's mood or behaviour, and which severely restricts his social functioning, or his awareness of his immediate environment.";

(**6**) S.R. 1995 No. 35; regulation 18 was amended by S.R. 1995 No. 149 and S.R. 1996 No. 73
(**7**) S.R. 1995 No. 35; amended by S.R. 1995 No. 149 and S.R. 1996 No. 73

(c) after paragraph (5) there shall be added the following paragraph—

"(6) In paragraph (5)(*h*), "medical evidence" means—

(a) evidence from a doctor approved by the Department;

(b) evidence (if any) from any other doctor or a hospital or similar institution,

or such part of such evidence as constitutes the most reliable evidence available in the circumstances.".

Amendment of the Social Security (Incapacity for Work) (General) Regulations

4.—(1) The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**8**) shall be amended in accordance with paragraphs (2) to (12).

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

(a) in the definition of "doctor" at the end there shall be added "or, in the case of a medical practitioner practising outside the United Kingdom of whom the Department may request a medical opinion, a person registered or recognised as such in the country in which he pursues his medical practice";

(b) after the definition of "doctor" there shall be inserted the following definition—

""medical evidence" means—

(a) evidence from a doctor approved by the Department;

(b) evidence (if any) from any other doctor or a hospital or similar institution,

or such part of such evidence as constitutes the most reliable evidence available in the circumstances;";

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

""relative" means a close relative, a spouse or, in the case of an unmarried couple, the other member of that couple, grandparent, grandchild, uncle, aunt, nephew or niece;";

(d) the definition of "voluntary organisation" shall be omitted;

(e) for the definition of "volunteer" there shall be substituted the following definition—

""volunteer" means a person who is engaged in voluntary work, otherwise than for a close relative, where the only payment received by him or due to be paid to him by virtue of being so engaged is in respect of any expenses reasonably incurred by him in connection with that work;".

(3) In regulation 10(2)(*e*) (certain persons with a severe condition to be treated as incapable of work)—

(a) for "a doctor approved by the Department has certified that he is suffering from any of the following conditions" there shall be substituted "he is suffering from any of the following conditions, and there exists medical evidence that he is suffering from any of them";

(b) in head (ii) for "and muscle" there shall be substituted "or muscle";

(c) for head (viii) there shall be substituted the following head—

"(viii) a severe mental illness, involving the presence of mental disease, which severely and adversely affects a person's mood or behaviour, and which severely restricts his social functioning, or his awareness of his immediate environment.".

(**8**) S.R. 1995 No. 41; relevant amending regulations are S.R. 1995 No. 149