1995 No. 149

SOCIAL SECURITY

The Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 1995

Made . . . . . 7th April 1995

Coming into operation in accordance with regulation 1(2)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 167A, 167C(3), 167D and 167E of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**), sections 57(1) and 59A of, and paragraph 4 of Schedule 3 to, the Social Security Administration (Northern Ireland) Act 1992(**b**) and Articles 6, 9 and 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**c**) 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, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and which is made before the end of a period of 6 months beginning with the coming into operation of that Order, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Incapacity for Work) (Miscellaneous Amendments) Regulations (Northern Ireland) 1995.

(2) Regulations 1, 3 and 4 shall come into operation forthwith and regulation 2 on 13th April 1995 immediately after the coming into operation of the Social Security (Medical Evidence) (Amendment) Regulations (Northern Ireland) 1994(**d**).

(3) The Interpretation Act (Northern Ireland) 1954(**e**) shall apply to these regulations as it applies to a Measure of the Assembly.

Amendment of the Social Security (Medical Evidence) Regulations

2.—(1) The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(**f**) shall be amended in accordance with paragraphs (2) and (3).

(**a**) 1992 c. 7; sections 167A and 167C are 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 are inserted by Article 8(1) of that Order

(**b**) 1992 c. 8; section 59A is inserted by Article 8(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

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

(**d**) S.R. 1994 No. 468

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

(**f**) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153, S.R. 1992 No. 83 and S.R. 1994 No. 468

(2) In regulation 2(1)(*d*)(**a**) (evidence of incapacity for work and confinement) for "from a doctor" there shall be substituted "in accordance with sub-paragraphs (*a*) to (*c*)" and after "refrain" there shall be inserted "(or should have refrained)".

(3) In paragraph 3 of Part I of Schedule 1B(**b**) (rules for Form Med 4) for ", 10 and 11" there shall be substituted "and 9 to 13".

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

3.—(1) The Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(**c**) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 13(2)(*b*) (special provisions for persons entitled to short-term incapacity benefit on termination of a period engaged in training for work) for "within a period" there shall be substituted "occurring in whole or in part in a period".

(3) After regulation 17 (transitional awards of long-term incapacity benefit) there shall be inserted the following regulation—

"*Awards of incapacity benefit in cases where periods of interruption of employment and periods of incapacity for work link*

17A. Where a person had been entitled to invalidity benefit in a period of interruption of employment occurring in whole or in part in a period not exceeding 57 days immediately before the appointed day and becomes entitled to an award of incapacity benefit on the basis that a day of incapacity for work on or after the appointed day forms part of a period of incapacity for work beginning before the appointed day, that award shall have effect as if it were an award of long-term incapacity benefit.".

(4) In regulation 18 (rate of long-term incapacity benefit in transitional cases) for paragraph (8) there shall be substituted the following paragraph—

"(8) For the purposes of Part IV, a "transitional case" means a case where a person is entitled to an award of long-term incapacity benefit by virtue of regulation 17 or 17A.".

(5) In regulation 20(2)(*b*) (special provisions for persons entitled to long-term incapacity benefit on termination of a period engaged in training for work) for "within a period" there shall be substituted "occurring in whole or in part in a period".

(6) In regulation 22(1)(*b*)(ii) (effect of entitlement to guaranteed minimum pensions on payment of the additional rate element in a transitional case of long-term incapacity benefit) for "pension", in both places where it occurs, there shall be substituted "guaranteed minimum pension".

(7) After regulation 28 (transitional provisions for an increase of severe disablement allowance for adult dependants) there shall be inserted the following regulation—

(**a**) Regulation 2(1)(*d*) is inserted by S.R. 1994 No. 468
(**b**) Schedule 1B is inserted by S.R. 1994 No. 468
(**c**) S.R. 1995 No. 35

"*Transitional provision for entitlement to severe disablement allowance where a person has been engaged in training for work*

28A. For the purposes of entitlement to severe disablement allowance where a person—

(*a*) at any time in a period of not more than 57 days immediately before the appointed day attends a training course of the type specified in regulation 7(1)(*f*) of the Unemployment, Sickness and Invalidity Benefit Regulations(**a**);

(*b*) was entitled to severe disablement allowance in a period of interruption of employment within a period not exceeding 57 days prior to the first day of attendance on the training course; and

(*c*) becomes incapable of work within a period of 57 days after the last day of attendance on a training course,

he shall be treated as incapable of work and disabled for the days falling within the periods referred to in paragraphs (*a*), (*b*) and (*c*) notwithstanding that he may have been capable of work on any of those days.".

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

(*a*) in paragraph (4) for "sub-paragraphs (*d*) to (*h*)" there shall be substituted "sub-paragraphs (*d*) to (*k*)"; and

(*b*) in paragraph (5)—

(i) in sub-paragraph (*a*)(ii) for "was not capable" there shall be substituted "was incapable";

(ii) in sub-paragraph (*c*) after "the appointed day" there shall be inserted "and the spell of incapacity for work which is running at the appointed day continues";

(iii) in sub-paragraph (*h*) for head (vii) there shall be substituted the following head—

"(vii) manifestations of severe and progressive immune deficiency states characterised by the occurrence of severe constitutional disease or opportunistic infections or tumour formation;"; and

(iv) after sub-paragraph (*h*) there shall be added the following sub-paragraphs—

"(*i*) a person who was in receipt of a payment of an increase of disablement pension by virtue of section 104 and regulation 17 of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(**b**) (increase of disablement pension for constant attendance) at a rate greater than that specified in paragraph 2(*a*) or at the rate specified in paragraph 2(*b*) of Part V of Schedule 4 to the Contributions and Benefits Act(**c**) immediately before the appointed day and continues to be in receipt of such payment;

(**a**) S.R. 1984 No. 245
(**b**) S.R. 1984 No. 92, to which there are amendments not relevant to these regulations
(**c**) *See* Article 3 of S.R. 1995 No. 71