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STATUTORY INSTRUMENTS

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**1994 No. 1898**

**The Social Security (Incapacity for Work) (Northern Ireland) Order 1994**

**Power to provide for the transition to the new test of incapacity for work**

9.—(1) The Department may by regulations make such provision as appears to it to be necessary or expedient for the purposes of, or in connection with, the transition to the test of incapacity for work provided for by Articles 7 and 8.

Nothing in the following provisions of this Article shall be construed as restricting the generality of that power.

(2) In this Article—

“commencement” means the commencement of Articles 7 and 8; and

“prescribed” means prescribed by regulations under this Article.

(3) Regulations under this Article may provide—

- (a) that days of incapacity for work before commencement, and such other days as may be prescribed, shall be taken into account for the purposes of section 167B(3) of the Contributions and Benefits Act (period from which the all work test applies);
- (b) that a person’s continued enjoyment after commencement of any allowance or other advantage under any provision for the purposes of which Part XIIA of the Contributions and Benefits Act applies shall, except as may be prescribed, be subject to satisfying the test of incapacity for work under that Part; and
- (c) for the determination in accordance with that Part of the question whether the person is incapable of work.

(4) Subsections (3) and (4) of section 171 of the Contributions and Benefits Act (general provisions as to regulations and orders) apply in relation to the power conferred by paragraph (1) as they apply in relation to a power conferred by that Act to make regulations.

(5) For the period of four years from the making of this Order a statutory rule which contains (whether alone or with other provisions) any regulations made under this Article shall be subject to the confirmatory procedure.

(6) A statutory rule—

- (a) which contains (whether alone or with other provisions) any regulations made under this Article; and
- (b) which is not subject to the confirmatory procedure,  
shall be subject to negative resolution.