

## 1994 No. 456

## SOCIAL SECURITY

**The Social Security (Claims and Payments)  
(Amendment No. 2) Regulations (Northern Ireland) 1994**

*Made* . . . . . 22nd November 1994

*Coming into operation* . . . . . 13th April 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 5(1)(a), (c), (f), (i) and (j) of the Social Security Administration (Northern Ireland) Act 1992(a) and Article 14 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(b) 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 (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1994 and shall come into operation on 13th April 1995.

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

*Amendment of the Social Security (Claims and Payments) Regulations*

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d) shall be amended in accordance with paragraphs (2) to (17).

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) paragraph (f) shall be omitted.

(3) In regulation 10 (claim for sickness benefit etc. where no entitlement to statutory sick pay or statutory maternity pay) for the words preceding “or severe disablement allowance” there shall be substituted—

*“Claim for incapacity benefit or severe disablement allowance where no entitlement to statutory sick pay or statutory maternity pay*

**10.—(1) Paragraph (2) applies to a claim for incapacity benefit”.**

(4) In regulation 11 (special provisions where it is certified that a woman is expected to be confined or where she has been confined) for “sickness or

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(a) 1992 c. 8

(b) S.I. 1994/1898 (N.I. 12)

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

(d) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 Nos. 67 and 141, S.R. 1989 Nos. 40 and 373, S.R. 1990 No. 398, S.R. 1992 No. 271 and S.R. 1993 No. 375

invalidity benefit" in both places where those words occur there shall be substituted "incapacity benefit".

(5) Regulation 12 (self-certified claims for first 7 days of incapacity for work) shall be omitted.

(6) In regulation 15(5) (advance notice of retirement and claim for and award of pension) for "sickness, invalidity" there shall be substituted "incapacity benefit".

(7) In regulation 16(4) (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate) for "sickness benefit, invalidity benefit" there shall be substituted "incapacity benefit".

(8) In regulation 18(2) (duration of disallowance) the words "a continuation claim" for sickness benefit, invalidity benefit or severe disablement allowance has the same meaning as in paragraph 2(c) of Schedule 4 and" shall be omitted.

(9) In regulation 21(6) (direct credit transfer) for "sickness benefit, invalidity benefit" there shall be substituted "incapacity benefit".

(10) For regulation 24 (unemployment benefit, sickness or invalidity benefit, severe disablement allowance and maternity allowance) there shall be substituted the following regulation—

*"Unemployment benefit, incapacity benefit, severe disablement allowance and maternity allowance*

**24.**—(1) Subject to regulation 21 and paragraphs (2) and (3), unemployment benefit, incapacity benefit and severe disablement allowance shall be paid fortnightly in arrears unless, in any particular case, the Department arranges otherwise.

(2) Subject to regulation 21 and paragraph (3), incapacity benefit and severe disablement allowance shall be paid weekly in arrears where—

(a) immediately before 13th April 1995 a person was entitled to sickness benefit, invalidity benefit or severe disablement allowance and—

(i) in the case of severe disablement allowance, there has been no break in the entitlement to that benefit on or after that date;

(ii) in the case of sickness benefit and invalidity benefit, there has been no break in the entitlement to incapacity benefit on or after that date;

(b) a claim for incapacity benefit or severe disablement allowance is made on or after 13th April 1995 and immediately before the date of that claim income support on the grounds of incapacity for work was being paid weekly.

(3) If the weekly amount of incapacity benefit or severe disablement allowance is less than £1 it may be paid in arrears at intervals of 4 weeks.

(4) Maternity allowance shall be paid on Friday in the week for which it is payable unless in any particular case the Department arranges otherwise."

(11) For the Table in Part I of Schedule 1 (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative) there shall be substituted the Table set out in Schedule 1 to these regulations.

(12) In Schedule 3 (duration of disallowance)—

(a) for “Sickness benefit or unemployment benefit” in column (1) there shall be substituted “Unemployment benefit”; and

(b) “Invalidity benefit” and “Severe disablement allowance” in column (1) and the respective entries opposite those words in column (2) shall be omitted.

(13) In Schedule 4 (prescribed times for claiming benefit) for paragraph 2 there shall be substituted the following paragraph—

“2. Incapacity benefit or severe disablement allowance. The day in respect of which the claim is made and the period of one month immediately following it.”.

(14) In Schedule 5 (miscellaneous provisions which vary the prescribed times under Schedule 4) in paragraph 2 (sickness benefit etc. claimed by hospital in-patients) for the words preceding “or severe disablement allowance” there shall be substituted—

*“Incapacity benefit or severe disablement allowance claimed by hospital in-patients*

2.—(1) Where it is being determined whether the provisions of regulation 19(2) (good cause) have been satisfied by a person who is, or has been, an in-patient in a hospital and who makes a claim for incapacity benefit”.

(15) In Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—

(a) in paragraph 2(b) (time of payment) for “sickness or invalidity benefit” there shall be substituted “incapacity benefit”;

(b) in paragraph 3—

(i) in sub-paragraph (1) after “Subject to” there shall be inserted “sub-paragraph (1A) and to”; and

(ii) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) Subject to sub-paragraph (2), where income support is payable to a person on the grounds of incapacity for work, that entitlement commenced on or after 13th April 1995, and no relevant social security benefit is payable to that person, the income support shall be paid fortnightly in arrears.”; and

(c) in paragraph 4 in the definition of “relevant social security benefit” for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

(16) In Schedule 8A (deductions from benefits and direct payment to third parties) in paragraph 1 (interpretation) in the definition of "specified benefit" for "sickness benefit, invalidity benefit" there shall be substituted "incapacity benefit".

(17) In Schedule 8B (deductions of mortgage interest from benefit and payment to qualifying lenders) in paragraph 1 (interpretation) in the definition of "relevant benefits" for "sickness benefit, invalidity benefit" there shall be substituted "incapacity benefit".

*Revocations*

3. The regulations specified in column (1) of Schedule 2 are revoked to the extent mentioned in column (3).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 22nd November 1994.

(L.S.)

*L. Frew*

Assistant Secretary

**“Benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative**

| <i>Benefit claimed</i><br>(1)  | <i>Alternative benefit or benefit treated as if also claimed</i><br>(2)                        |
|--|--|
| Incapacity benefit   | Severe disablement allowance   |
| Unemployment benefit   | Unemployability supplement or invalid care allowance   |
| Severe disablement allowance   | Incapacity benefit   |
| An increase of unemployment benefit  | An increase of invalid care allowance  |
| Incapacity benefit for a woman   | Maternity allowance  |
| Severe disablement allowance for a woman   | Maternity allowance  |
| Maternity allowance  | Incapacity benefit or severe disablement allowance   |
| Category B or Category C retirement pension  | Widow's benefit  |
| A retirement pension of any category   | A retirement pension of any other category or graduated retirement benefit                     |
| An increase of incapacity benefit  | An increase of severe disablement allowance  |
| Attendance allowance   | An increase of disablement pension where constant attendance is needed                         |
| An increase of disablement pension where constant attendance is needed                         | Attendance allowance or disability living allowance  |
| An increase of severe disablement allowance  | An increase of incapacity benefit  |
| Income support   | An invalid care allowance  |
| Widow's benefit  | A retirement pension of any category or graduated retirement benefit                           |
| Disability living allowance  | Attendance allowance or an increase of disablement pension where constant attendance is needed |
| Attendance allowance or an increase of disablement pension where constant attendance is needed | Disability living allowance  |
| Disability working allowance   | Family credit  |
| Family credit  | Disability working allowance”  |

## Regulations revoked

| Column (1)<br><i>Citation</i>  | Column (2)<br><i>Reference</i> | Column (3)<br><i>Extent of<br/>revocation</i> |
|--|--------------------------------|---|
| The Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 1988      | S.R. 1988 No. 141              | Regulation 8                                  |
| The Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1990       | S.R. 1990 No. 398              | Regulation 7(2), (4) and (8)                  |
| The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1992            | S.R. 1992 No. 7                | Regulation 25                                 |
| The Social Security (Miscellaneous Provisions) (Amendment No. 3) Regulations (Northern Ireland) 1992 | S.R. 1992 No. 453              | Regulation 6(6)                               |

*(This note is not part of the Regulations.)*

These regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the principal regulations”).

Regulation 2(2), (3), (4), (6), (7), (9), (14), (15)(a) and (c), (16) and (17) is consequential upon the coming into operation of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (“the Incapacity for Work Order”) by virtue of Article 2 of the Social Security (Incapacity for Work) (1994 Order) (Commencement) Order (Northern Ireland) 1994 (S.R. 1994 No. 450 (C. 15)) and substitutes references to incapacity benefit for references to sickness benefit or invalidity benefit in the principal regulations.

Regulation 2(2) omits a provision specific to invalidity benefit.

Regulation 2(5) omits regulation 12 of the principal regulations.

Regulation 2(8) and (12) amends regulation 18 of, and Schedule 3 to, the principal regulations to provide that the provisions on the disallowance of continuation claims which apply to sickness benefit and invalidity benefit are not carried forward into incapacity benefit and also cease to apply to severe disablement allowance.

Regulation 2(10) and (15)(b) substitutes regulation 24 of, and amends Schedule 7 to, the principal regulations to provide that awards of incapacity benefit, severe disablement allowance and income support in cases of incapacity for work shall be paid fortnightly where entitlement commences on or after 13th April 1995.

Regulation 2(11) substitutes the Table in Part I of Schedule 1 to the principal regulations to make amendments consequential upon the coming into operation of the Incapacity for Work Order and to provide that claims for unemployment benefit may not be treated as claims for any benefit other than unemployment supplement or invalid care allowance.

Regulation 2(13) amends Schedule 4 to the principal regulations to provide a one month time limit for new and repeat claims for incapacity benefit and severe disablement allowance.

Regulation 3 makes consequential revocations.

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.