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STATUTORY RULES OF NORTHERN IRELAND

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**1995 No. 150**

**SOCIAL SECURITY**

**The Social Security (Incapacity Benefit)  
(Consequential and Transitional Amendments and  
Savings) Regulations (Northern Ireland) 1995**

*Made* - - - - *7th April 1995*

*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 sections 86A(1), 113(1)(b) and 121(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), sections 5(1)(o) and 59(1) of the Social Security Administration (Northern Ireland) Act 1992(2) and Article 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(3) and of all other powers enabling it in that behalf and with the consent of the Department of Finance and Personnel to regulation 22(4), hereby makes the following regulations:

**PART I**  
**GENERAL**

**Citation, commencement and interpretation**

**1.—**(1) These regulations may be cited as the Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations (Northern Ireland) 1995 and shall come into operation on 13th April 1995.

(2) In these regulations—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

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(1) 1992 c. 7; section 86A is inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12))  
(2) 1992 c. 8  
(3) S.I. 1994/1898 (N.I. 12)  
(4) See section 165(9)(a) of the Social Security Administration (Northern Ireland) Act 1992

“the appointed day” means 13th April 1995.

(3) The Interpretation Act (Northern Ireland) 1954<sup>(5)</sup> shall apply to these regulations as it applies to a Measure of the Assembly.

## PART II

### MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

#### **Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations**

2. In regulation 3 of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975<sup>(6)</sup> (modifications, in relation to widows, of provisions with respect to unemployment and sickness benefit, maternity allowance and Category retirement pension)—

- (a) in the heading and in paragraph (1)(a) and (b) for “sickness benefit” there shall be substituted “short-term incapacity benefit”;
- (b) in paragraph (5) for the words “sickness benefit” in each place where they occur there shall be substituted “short-term incapacity benefit”.

#### **Amendment of the Social Security (Airmen’s Benefits) Regulations**

3. In regulation 2 of the Social Security (Airmen’s Benefits) Regulation (Northern Ireland) 1975<sup>(7)</sup> (removal of disqualification in the case of airmen for receiving benefit while absent from Northern Ireland) for the word “sickness benefit, invalidity benefit” in both places where they occur there shall be substituted “incapacity benefit”.

#### **Amendment of the Social Security (Mariners’ Benefits) Regulations**

4.—(1) The Social Security (Mariners’ Benefits) Regulations (Northern Ireland) 1975<sup>(8)</sup> shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4 (removal of disqualification for receiving benefit by reason of absence from Northern Ireland) for the words “sickness benefit, invalidity benefit” in both places where they occur there shall be substituted “incapacity benefit”.

(3) In regulation 5 (evidence of unemployment or incapacity) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

(4) In regulation 6(2) (special provisions relating to days of unemployment or incapacity for work in the case of mariners and share fishermen employed on board any ships or vessels) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

#### **Amendment of the Social Security (Hospital In-Patients) Regulations**

5.—(1) The Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975<sup>(9)</sup> shall be amended in accordance with paragraphs (2) and (3).

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(5) 1954 c. 33 (N.I.)

(6) S.R. 1975 No. 19; relevant amending regulations are S.R. 1978 No. 102 and S.R. 1989 No. 193

(7) S.R. 1975 No. 101, amended by S.R. 1984 No. 317

(8) S.R. 1975 No. 108, amended by S.R. 1984 No. 317

(9) S.R. 1975 No. 109; relevant amending regulations are S.R. 1987 No. 12

(2) In Schedule 1 (beneficiary to be regarded as having a dependent if any of these benefits is or would be payable) after paragraph (c) there shall be added the following paragraph—

“(ca) incapacity benefit where a beneficiary would satisfy the conditions for an increase of sickness or invalidity benefit in respect of such a dependent had the provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and regulations made thereunder relating to such benefits and to such an increase which applied on 12th April 1995 still been in force.”.

(3) In Schedule 2 (personal benefits) for “Sickness benefit” and “Invalidity benefit” there shall be substituted “Incapacity benefit”.

### **Amendment of the Social Security (Credits) Regulations**

6.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975<sup>(10)</sup> shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) after the definition of “the Act” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”.

(3) In regulation 8(1) (credits on termination of full-time education, training or apprenticeship) for “sickness benefit” there shall be substituted “short-term incapacity benefit”.

(4) In regulation 9 (credits for unemployment or incapacity for work)—

(a) for paragraph (5) there shall be substituted the following paragraph—

“(5) Subject to paragraph (8), in this regulation except for paragraph (9)(f) a “day of incapacity for work” in relation to any person means any day which—

- (a) was a day of incapacity for work under section 30C of the Contributions and Benefits Act<sup>(11)</sup> (incapacity benefit: days and periods of incapacity for work); or
- (b) would have been such a day had he claimed short-term incapacity benefit or maternity allowance within the prescribed time; or
- (c) was a day of incapacity for work for the purposes of statutory sick pay under section 147 of the Contributions and Benefits Act (statutory sick pay: employers liability) and fell within a period of entitlement under section 149 of that Act (period of incapacity for work).”;

(b) in paragraph (8) for “paragraph (5)(b) or (d)” there shall be substituted “paragraph (5)(b) or (c)”;

(c) in paragraph (9)—

- (i) for the words “sickness benefit” where they first occur and where they occur in sub-paragraphs (a), (c) and (f) there shall be substituted “short-term incapacity benefit”;
- (ii) in sub-paragraph (b) for head (i) there shall be substituted the following head—

“(i) short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act<sup>(12)</sup>”;
- (iii) in sub-paragraph (f) for the words “paragraph (5)(d)” in both places where they occur there shall be substituted “paragraph (5)(c)”;

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<sup>(10)</sup> S.R. 1975 No. 113; relevant amending regulations are S.R. 1977 No. 132, S.R. 1983 No. 31, S.R.1987 Nos. 153 and 220, S.R. 1988 No. 326 and S.R. 1989 No. 368

<sup>(11)</sup> Section 30C is inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

<sup>(12)</sup> Section 30A is inserted by Article 3(1) of the Social Security (incapacity for Work) (Northern Ireland) Order 1994

(iv) sub-paragraph (g) is hereby revoked.

### **Amendment of the Social Security (Invalid Care Allowance) Regulations**

7.—(1) The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(13) shall be amended in accordance with paragraphs (2) and (3).

(2) After regulation 11A(14) (men aged 65 before 28th October 1994) there shall be inserted the following regulation—

**“Application of the Social Security (General Benefit) Regulations to invalid care allowance**

**11B.** The provisions of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(15), specified in column (1) of Schedule 1 to these regulations, the subject matter of which is described in column (2) of that Schedule, shall, with any necessary modifications, apply to invalid care allowance as they apply to incapacity benefit.”.

(3) For Schedule 1 there shall be substituted the following Schedule—

“SCHEDULE 1

Regulation 11B

**Provisions of the Social Security (General Benefit) Regulations (Northern Ireland) 1984 applied to invalid care allowance**

<i>Regulation applied</i> (1)	<i>Subject Matter</i> (2)
2	Exceptions from disqualification for imprisonment, etc.
3	Suspension of payment of benefit during imprisonment, etc.
4	Interim payments by way of benefit under the Act
9	Payments of benefit and suspension of payments pending a decision on appeals or references, arrears and repayments”.

### **Amendment of the Social Security Benefit (Persons Residing Together) Regulations**

8. In regulation 2(2)(a) of the Social Security Benefit (Persons Residing Together) Regulations (Northern Ireland) 1977(16) (circumstances in which a person is to be treated as residing or not residing with another person or in which persons are to be treated as residing or not residing together)

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- (a) “or sickness benefit” and “or invalidity pension” shall be omitted;
  - (b) after “66 (increase of a disablement pension where the beneficiary is entitled to unemployment supplement)” there shall be inserted “or section 86A of the Social

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(13) S.R. 1976 No. 99; relevant amending regulations are S.R. 1977 No. 74 and S.R. 1994 No. 370

(14) Regulation 11A is inserted by S.R. 1994 No. 370

(15) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 Nos. 299 and 317, S.R. 1986 No.340, S.R. 1987 Nos. 122 and 465 and S.R. 1992 No. 6

(16) S.R. 1977 No. 166, amended by S.R. 1983 No. 36 and S.R. 1984 No. 317

Security Contributions and Benefits (Northern Ireland) Act 1992 (incapacity benefit: increase for adult dependents)”.

### **Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations**

**9.** In Schedule 1 to the Social Security (Graduated Retirement Benefit)(No. 2) Regulations (Northern Ireland) 1978(**17**) (which sets out sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(**18**) as continued in force by the regulations) in the proviso to section 35(9) for “sections 14(6) and 15(4) of the Act (rate of unemployment benefit, sickness benefit or invalidity pension for persons over pensionable age)” there shall be substituted “sections 25(5) and 30B(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**19**) (rate of unemployment benefit for persons over pensionable age) and regulations 11(1) and 18(6) of the Social Security (incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(**20**) (rate of unemployment benefit and rate of incapacity benefit in transitional cases for persons over pensionable age)”.

### **Amendment of the Social Security (Widow’s and Widower’s Invalidity Pensions) Regulations**

**10.**—(1) The Social Security (Widow’s and Widower’s Invalidity Pensions) Regulations (Northern Ireland) 1978(**21**) shall be amended in accordance with paragraphs (2) to (5).

(2) For regulation 1(2) (interpretation) there shall be substituted the following paragraph—

“(2) In these regulations “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and other expressions shall have the same meaning as in that Act.”.

(3) Regulation 2 is hereby revoked.

(4) For regulation 3 (rates of Category A retirement pensions for certain widows and widowers) there shall be substituted the following regulation—

“**3.** Where the rate of a person’s Category A retirement pension falls to be determined under sections 40(6)(b) or 41(5)(b) of the Contributions and Benefits Act(**22**) it shall be equal to the higher of—

- (a) the weekly rate of incapacity benefit applicable to him under the said sections 40 and 41 immediately before he attained pensionable age or where there was no such rate, the rate specified in section 41(4) of the Contributions and Benefits Act; or
- (b) the rate of Category A retirement pension to which he would have been entitled apart from those sections,

whichever is more favourable to him having regard to the effect of section 52 of the Contributions and Benefits Act (special provision for surviving spouses).”.

(5) For regulation 4 (prescribed periods for the purposes of Article 18 of the Pensions Order) there shall be substituted the following regulation—

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(17) [S.R. 1978 No. 105](#), to which there are amendments not relevant to these regulations

(18) [1966 c. 6 \(N.I.\)](#)

(19) Section 30B is inserted by Article 4(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(20) [S.R. 1995 No. 35](#)

(21) [S.R. 1978 No. 108](#)

(22) Sections 40 and 41 are substituted by paragraphs 8 and 9 respectively of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

**“Prescribed periods for the purposes of section 41 of the Contributions and Benefits Act**

4. The prescribed period for the purposes of section 41(1)(b), (2)(a) and (3)(a) of the Contributions and Benefits Act shall be 13 weeks (“week” for this purpose meaning any period of 7 days) beginning with the day following the day on which the wife died.”.

**Amendment of the Social Security Benefit (Persons Abroad) Regulations**

11. In regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(23) (modification of the Act in relation to sickness benefit, invalidity benefit, severe disablement allowance, unemployability supplement and maternity allowance)—

- (a) in the heading for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”;
- (b) in paragraph (1)(b) for “sickness benefit and invalidity benefit” there shall be substituted “incapacity benefit”;
- (c) in paragraph (1A)(b) for “sickness benefit and invalidity benefit” there shall be substituted “incapacity benefit”;
- (d) in paragraph (1B)(a)(ii) for “sickness benefit and invalidity benefit” there shall be substituted “incapacity benefit”;
- (e) paragraphs (2) and (3) are hereby revoked;
- (f) in paragraph (4)(a) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

**Amendment of the Social Security Benefit (Computation of Earnings) Regulations**

12.—(1) The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978(24) shall be amended in accordance with paragraphs (2) to (5).

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

- (a) after the definition of “the Act” there shall be inserted the following definition—  
““the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;
- (b) in the definition of “earnings” after “of the Act” there shall be inserted “and section 86A of the Contributions and Benefits Act”;
- (c) in the definition of “specified benefit” for “invalidity pension” there shall be substituted “long-term incapacity benefit”.

(3) In regulation 3 (payments to be disregarded)—

- (a) in paragraph (1)(b) after “of the Act” there shall be inserted “and section 86A of the Contributions and Benefits Act”;
- (b) in paragraph (3) “or incapacity for work” shall be omitted.

(4) In regulation 5(2) (calculation of earnings of certain retirement pensioners and adult dependents of pensioners) after “of the Act” there shall be inserted “and section 86A of the Contributions and Benefits Act”.

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(23) S.R. 1978 No. 114; relevant amending regulations are S.R. 1983 No. 36, S.R. 1984 No. 317, S.R.1986 No. 303 and S.R. 1994 Nos. 45 and 269

(24) S.R. 1978 No. 371; relevant amending regulations are S.R. 1984 Nos. 317 and 378, S.R. 1987 No.201, S.R. 1989 Nos. 373, 381 and 438, S.R. 1990 No. 398 and S.R. 1992 No. 96

(5) In regulation 7 (calculation of earnings from boarders or lodgers of certain retirement pensioners and adult dependents of pensioners) after “of the Act” there shall be inserted “and section 86A of the Contributions and Benefits Act”.

### **Amendment of the Social Security (Contributions) Regulations**

**13.**—(1) The Social Security (Contributions) Regulations (Northern Ireland) 1979<sup>(25)</sup> shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 23(1)(a) (exception from liability for Class 2 contributions) for “sickness benefit or invalidity benefit” there shall be substituted “incapacity benefit”.

(3) Regulation 28(2)(d) is hereby revoked.

(4) In regulation 38(6) (treatment for purpose of contributory benefit of late paid contributions under the Act) for “sickness benefit” there shall be substituted “short-term incapacity benefit”.

(5) In regulation 39 (treatment for the purpose of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor) for the words “sickness benefit” in both places where they occur there shall be substituted “short-term incapacity benefit”.

### **Amendment of the Social Security (Overlapping Benefits) Regulations and savings**

**14.**—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979<sup>(26)</sup> shall be amended in accordance with paragraphs (2) to (11).

(2) Regulation 3 is hereby revoked.

(3) In regulation 4 (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 (2) there shall be inserted the following paragraph—

“(2A) Paragraph (1) shall not require an adjustment of widow’s pension reduced in accordance with section 39(4) of the Contributions and Benefits Act only by reference to long-term incapacity benefit calculated in accordance with section 40(5)(b) of that Act.”.

(4) Subject to the provisions of paragraph (11), in regulation 6(5)(b) (adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits)—

(a) “or invalidity benefit” shall be omitted;

(b) head (i) is hereby revoked.

(5) In regulation 9 (adjustment of dependency benefit in respect of an adult dependent where other dependency benefit is payable) at the end of paragraph (3) there shall be added “or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations (Northern Ireland) 1994<sup>(27)</sup> who satisfies the requirements of paragraph (3)(a) of that regulation”.

(6) In regulation 10 (adjustment of dependency benefit where certain personal benefit is payable)

(a) in paragraph (3) at the end there shall be added “or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations (Northern Ireland) 1994 who satisfies the requirements of paragraph (3)(a) of that regulation”;

<sup>(25)</sup> S.R. 1979 No. 186; relevant amending regulations are S.R. 1987 Nos. 143 and 468

<sup>(26)</sup> S.R. 1979 No. 242; relevant amending regulations are S.R. 1984 No. 317

<sup>(27)</sup> S.R. 1994 No. 485

- (b) in paragraph (4) after the words “sickness benefit” where they first occur there shall be inserted “but not incapacity benefit”.
- (7) In regulation 14 (provisions for adjusting benefit for part of a week)—
- (a) for paragraph (1) there shall be substituted the following paragraph—
- “(1) Where an adjustment falls to be made under these regulations for a part of a week, benefit shall be deemed to be payable—
- (a) at a daily rate equal to one-seventh of the appropriate weekly rate for each day of the week in respect of any benefit (whether under the Contributions and Benefits Act or otherwise) except where maternity benefit and unemployment benefit fall to be adjusted; or
- (b) at a daily rate equal to one-sixth of the appropriate weekly rate for each day of the week except Sunday where maternity benefit or unemployment benefit falls to be adjusted.”;
- (b) in paragraph (2) “sickness benefit, invalidity benefit or severe disablement allowance” shall be omitted.
- (8) In column (1) of Schedule 1 (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Act)—
- (a) in paragraph 1 for “sickness benefit” there shall be substituted “short-term incapacity benefit”;
- (b) in paragraph 4 for “invalidity benefit” there shall be substituted “incapacity benefit”;
- (c) in paragraph 6 after “Invalidity allowance” there shall be added “or an increase in the rate of incapacity benefit in accordance with regulation 9(1) of the Social Security (Incapacity Benefit) Regulations (Northern Ireland) 1994(28)”.
- (9) Where before the appointed day regulation 3 of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 (special provisions for widow’s benefit and invalidity pension) applied to a widow, and—
- (a) on or after that day she remains entitled to either a widowed mother’s allowance or a widow’s pension; and
- (b) she is either a transitional case for the purposes of Part IV of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 or has an award of long-term incapacity benefit by virtue of regulation 19 or 20 of those regulations; and
- (c) she is under pensionable age,
- subject to the modifications made by paragraph (10) that regulation shall continue to apply to her as if the revocation made by paragraph (2) had not been made.
- (10) Where paragraph (9) applies regulation 3 of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 shall be modified so that—
- (a) for the words “invalidity pension” in each place where they occur there shall be substituted “long-term incapacity benefit”;
- (b) for paragraph (2)(a) there shall be substituted the following sub-paragraph—
- “(a) an amount equal to either the basic rate of long-term incapacity benefit referred to in regulation 18(1)(a) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 paid in a transitional case or an award of widow’s basic pension calculated by reference to section 44(1) of the Contributions and Benefits Act or an amount equal to the greater of them;”;

- (c) in paragraph (2)(b)(29) for “two additional pensions” there shall be substituted “incapacity benefit payable at the additional rate in accordance with regulation 18(1)(b) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 and widow’s pension determined in accordance with section 44(3)(b) of the Contributions and Benefits Act”.

(11) Notwithstanding the amendment made by paragraph (4), where in a transitional case long-term incapacity benefit falls to be adjusted by reference to a benefit within column (2) of Schedule 1 to the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979, that benefit shall be adjusted on or after the appointed day as if “or invalidity benefit” had not been omitted from regulation 6 of those regulations.

#### **Amendment of the Statutory Sick Pay (General) Regulations**

15. In regulation 15(1) of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(30) (provision of information by employers to employees) for “sickness” there shall be substituted “short-term incapacity benefit”.

#### **Amendment of the Social Security (General Benefit) Regulations**

16. In regulation 2(2) of the Social Security (General Benefit) Regulations (Northern Ireland) 1984(31) (exceptions from disqualification for imprisonment, etc.) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

#### **Amendment of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations**

17.—(1) The Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(32) shall be amended in accordance with paragraphs (2) to (14).

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

- (a) after the definition of “the Act” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;

- (b) the definition of “disability appeal tribunal” shall be omitted.

(3) In regulation 2 (provisions to which Parts I and II of these regulations are subject) “and IV” shall be omitted.

(4) Regulation 3 is hereby revoked.

(5) In regulation 4 (special provisions relating to day substituted for Sunday)—

- (a) in paragraph (1) “or of incapacity for work” and “sickness or invalidity” shall be omitted;  
(b) in paragraph (3) “or of incapacity for work” and “sickness or invalidity” shall be omitted.

(6) In regulation 5 (night workers)—

- (a) in paragraph (1) “sickness benefit and invalidity benefit,” shall be omitted;  
(b) in paragraph (2)(b) “or incapable of work by reason of some specific disease or bodily or mental disablement” shall be omitted;

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(29) Regulation 3(2)(b) was amended by Article 19(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); see paragraph 11 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9)

(30) S.R. 1982 No. 263, to which there are amendments not relevant to these regulations

(31) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 No. 317, S.R. 1986 No. 340 and S.R. 1992 No. 6

(32) S.R. 1984 No. 245; relevant amending regulations are S.R. 1986 No. 82, S.R. 1988 No. 355, S.R. 1989 No. 364 and S.R. 1992 No. 146

- (c) paragraph (3) is hereby revoked.
- (7) In regulation 6A (requalification period)—
- (a) in paragraph (2)(a) “sickness benefit, invalidity pension,” shall be omitted;
  - (b) in paragraph (2)(b) for “section 14(1)(b) (sickness benefit) or treated as incapable of work by virtue of section 22(4) (state maternity allowance)” there shall be substituted “sections 167A to 1670 of the Contributions and Benefits Act(33)”.
- (8) In regulation 7 (days not to be treated as days of unemployment or incapacity for work)—
- (a) in the heading “or incapacity for work” shall be omitted;
  - (b) in paragraph (1)—
    - (i) “, sickness and invalidity” shall be omitted;
    - (ii) sub-paragraphs (c) and (f) are hereby revoked.
- (9) Regulations 7A, 8 and 8A are hereby revoked.
- (10) In regulation 13 (reckoning of periods of interruption of employment) for paragraph (2)(a) there shall be substituted the following sub-paragraph—
- “(a) any day on which a person is attending—
- (i) a training course provided by or on behalf of the Department of Economic Development; or
  - (ii) a training course or course of instruction provided in pursuance of arrangements made with that Department by any public authority, firm or person, and payment or training allowance is made by or on behalf of the said Department to the said person for his attendance at the course in question;”.
- (11) Regulations 15 and 17 are hereby revoked.
- (12) In regulation 20(1) (special provisions for certain persons who have been employed abroad) for “sickness benefit” there shall be substituted “short-term incapacity benefit”.
- (13) Part IV is hereby revoked.
- (14) After Part IV (sickness and invalidity benefit in respect of industrial injury) there shall be inserted the following Part—

## “PART IVA

### TRANSITIONAL PROVISIONS FOR INCAPACITY BENEFIT IN RESPECT OF INDUSTRIAL INJURY

#### **Provision for short-term incapacity benefit in respect of industrial injury—persons over pensionable age**

**32A.** In any case where—

- (a) immediately before the revocation of regulation 30, the provisions of that regulation applied; and
- (b) after 12th April 1995 a person becomes entitled to short-term incapacity benefit in respect of the same industrial injury by virtue of regulation 11 or 14 of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995,

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(33) Sections 167A to 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 to 167G are inserted by Article 8(1) of that Order

the weekly rate at which short-term incapacity benefit is payable shall be the rate set out in paragraph 2 of Part I of Schedule 4 to the Contributions and Benefits Act(34) (contributory periodical benefits), or, if higher, the rate at which that benefit would have been payable to the person concerned under section 30B(3) of that Act (incapacity benefit: rate).

**Provision for long-term incapacity benefit in respect of industrial injury — persons over pensionable age**

**32B.**—(1) Subject to paragraph (2), in any case where—

- (a) immediately before the revocation of regulation 31, the provisions of that regulation applied; and
- (b) after 12th April 1995 a person becomes entitled to long-term incapacity benefit by virtue of regulation 17, 17A or 21 of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(35),

the weekly rate at which long-term incapacity benefit is payable shall be the rate referred to in regulation 18(1) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 (notwithstanding that the person is over pensionable age), or, if higher, the rate at which that benefit would be payable under regulation 18(6) of those regulations.

(2) Where the contribution conditions for a Category A retirement pension specified in paragraph 5 of Part I of Schedule 3 to the Contributions and Benefits Act are not satisfied, those conditions shall be taken to be satisfied for the purposes of regulation 18(6) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995.”.

**Amendment of the Statutory Maternity Pay (General) Regulations**

**18.**—(1) The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(36) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 21A (effect of statutory maternity pay on invalidity benefit)—

- (a) in the heading for “invalidity benefit” there shall be substituted “incapacity benefit”;
- (b) in paragraph (1)—
  - (i) for “invalidity pension” there shall be substituted “short-term incapacity benefit at the higher rate or long-term incapacity benefit”;
  - (ii) for “section 15 of the Act or under Article 17 of the Social Security Pensions (Northern Ireland) Order 1975” there shall be substituted “section 30A of the Contributions and Benefits Act(37)”;
  - (iii) for “period of interruption of employment” there shall be substituted “period of incapacity for work”;
- (c) in paragraph (1)(a) “by reason of some specific disease or bodily or mental disablement, work for this purpose being work which the woman can reasonably be expected to do” shall be omitted;
- (d) in paragraph (1)(b) for “section 17(2) of the Act” there shall be substituted “section 30C (3) of the Contributions and Benefits Act(38)”;
- (e) in paragraph (1)(c) for “period of interruption of employment” there shall be substituted “period of incapacity for work”;

(34) Paragraph 2 is substituted by Article 4(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(35) Regulation 17A is inserted by S.R. 1995 No. 149

(36) S.R. 1987 No. 30; relevant amending regulations are S.R. 1988 No. 128 and S.R. 1990 No. 112

(37) Section 30A is inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(38) Section 30C is inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (f) in paragraph (1)(d)—
  - (i) for the words “sickness benefit” in both places where they occur there shall be substituted “short-term incapacity benefit”;
  - (ii) for “period of interruption of employment” there shall be substituted “period of incapacity for work”;
- (g) in paragraph (1A)—
  - (i) for “period of interruption of employment” there shall be substituted “period of incapacity for work”;
  - (ii) for “entitlement to invalidity pension under section 15 of the Act, as being a day on which the woman has been entitled to sickness benefit” there shall be substituted “entitlement to short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act, as being a day on which the woman has been entitled to short-term incapacity benefit”;
- (h) in paragraph (1B) for ““period of interruption of employment” has the same meaning as it has by virtue of section 17(1)(d) of the Act” there shall be substituted ““period of incapacity for work” has the same meaning as in section 30C(1) of the Contributions and Benefits Act”;
- (i) for paragraph (2) there shall be substituted the following paragraph—
 

“(2) Where by virtue of paragraph (1) a woman is entitled to short-term incapacity benefit at the higher rate or long-term incapacity benefit for any week (including part of a week) the total amount of such benefit (including any increase for a dependent) payable to her for that week shall be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part XII of the Contributions and Benefits Act for the same week, and only the balance, if any, of the short-term incapacity benefit at the higher rate or long-term incapacity benefit shall be payable to her.”.
- (3) In regulation 25A(5) (provision of information relating to claims for certain other benefits) for “sickness benefit, invalidity pension” there shall be substituted “incapacity benefit”.

#### **Amendment of the Social Security (Adjudication) Regulations**

**19.** In regulation 65 of the Social Security (Adjudication) Regulations (Northern Ireland) 1987<sup>(39)</sup> (review of decisions involving payment or increase of benefit other than industrial injuries benefit, income support, family credit or disability working allowance)—

- (a) in paragraph (1)(b) for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”;
- (b) in paragraph (3)(a)(ii) for “sickness benefit” there shall be substituted “short-term incapacity benefit”.

#### **Amendment of the Social Fund (Recovery by Deductions from Benefits) Regulations**

**20.** In regulation 2 of the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988<sup>(40)</sup> (benefits from which an award may be recovered)—

- (a) for paragraphs (d), (e) and (f) there shall be substituted the following paragraph—

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<sup>(39)</sup> S.R. 1987 No. 82; relevant amending regulations are S.R. 1992 No. 36

<sup>(40)</sup> S.R. 1988 No. 21, amended by S.R. 1992 No. 6

- “(d) incapacity benefit under section 86A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(41);”;
- (b) in paragraph (o) for “sickness benefit, invalidity pension” there shall be substituted “incapacity benefit”;
- (c) in paragraph (p) for “sickness benefit” there shall be substituted “short-term incapacity benefit”;
- (d) in paragraph (q) for “invalidity pension” there shall be substituted “long-term incapacity benefit”;
- (e) in paragraph (s) for “invalidity pension” there shall be substituted “long-term incapacity benefit”;
- (f) in paragraph (t) for “invalidity pension” there shall be substituted “long-term incapacity benefit”;
- (g) paragraphs (aa) and (bb) are hereby revoked.

### **Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations**

**21.**—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(42) shall be amended in accordance with paragraphs (2) to (4).

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

- (a) after the definition of “the Administration Act” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;

- (b) in the definition of “benefit” after “Article 33(2)(a) and (2A) of the Order” there shall be added “and any incapacity benefit under section 30A(1) and (5) of the Contributions and Benefits Act”.

(3) In regulation 15(2) (recovery by deduction from prescribed benefits) after sub-paragraph (e) there shall be added the following sub-paragraph—

“(f) any incapacity benefit.”.

(4) In regulation 16(8) (limitations on deductions from prescribed benefits) in the definition of “specified benefit” for “sickness benefit, invalidity benefit” there shall be substituted “incapacity benefit”.

### **Amendment of the Social Security (Recoupment) Regulations**

**22.** In regulation 2(1) of the Social Security (Recoupment) Regulations (Northern Ireland) 1990(43) (relevant benefits) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(ca) incapacity benefit;”.

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(41) Section 86A is inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(42) S.R. 1988 No. 142; relevant amending regulations are S.R. 1988 No. 369, S.R. 1992 No. 6 and S.R. 1993 No. 175

(43) S.R. 1990 No. 85, to which there are amendments not relevant to these regulations

## **Amendment of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations**

23. After Part IV of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations (Northern Ireland) 1994 (consequential amendments) there shall be added the following Part—

### **“PART V**

#### **TRANSITIONAL PROVISION**

##### **Effect of an increase of benefit under regulation 12, 13, 15, 19, 20, 24 or 25 of the Social Security (Incapacity Benefit) (Transitional) Regulations**

16. Where a woman is entitled to an increase of benefit for a dependent in accordance with regulation 12, 13, 15, 19, 20, 24 or 25 of the Social Security (incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995, regulation 9(1)(a) shall be treated for the purposes of the Contributions and Benefits Act as if such an increase was an increase of incapacity benefit prescribed in regulations made under section 86A of that Act.”.

### **PART III**

#### **TRANSITIONAL AND SAVINGS PROVISIONS AND REVOCATIONS**

##### **Claim or question concerning sickness or invalidity benefit to be determined after the appointed day**

24. For the purpose of determining any claim or question concerning sickness or invalidity benefit which falls to be determined on or after the appointed day, the Contributions and Benefits Act, the Administration Act, and any regulations made thereunder (other than the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(44)) shall be construed as if Article 15(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 had not been made.

##### **Recoupment of sickness or invalidity benefit**

25. Where a determination is made on or after the appointed day concerning the recoupment of sickness or invalidity benefit, regulation 2 of the Social Security (Recoupment) Regulations (Northern Ireland) 1990 shall be read as if the references to incapacity benefit in that regulation were references to sickness or invalidity benefit.

##### **Reviews in respect of sickness and invalidity benefit**

26. Where a decision relating to sickness or invalidity benefit is reviewed on or after the appointed day, then the provisions of regulation 65(1)(b) and (3)(a)(ii) of the Social Security (Adjudication) Regulations (Northern Ireland) 1987 shall be read as if the references to incapacity benefit and short-term incapacity benefit in that regulation were references to invalidity benefit or sickness benefit.

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(44) S.R. 1987 No. 465

### **Saving in respect of credits**

27. For the purpose of determining whether a person is entitled to be credited with earnings in respect of any period before the appointed day, regulation 9 of the Social Security (Credits) Regulations (Northern Ireland) 1975(45) (credits for unemployment or incapacity for work) shall continue to have effect as if the amendments to that regulation made by regulation 6 had not come into operation.

### **Revocations**

28. The revocations specified in column (1) of the Schedule are hereby revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland  
on

L.S.

7th April 1995.

*L. Frew*  
Assistant Secretary

The Department of Finance and Personnel hereby consents to regulation 22 of the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on

L.S.

7th April 1995.

*J. Sullivan*  
Assistant Secretary

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(45) S.R. 1975 No. 113; relevant amending regulations are S.R. 1977 No. 132, S.R. 1983 No. 31, S.R.1987 Nos. 153 and 220, S.R. 1988 No. 326 and S.R. 1989 No. 368

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## SCHEDULE

Regulation 28

**Revocations**

Column (1) <i>Citation</i>	Column (2) <i>Statutory Rule</i>	Column (3) <i>Extent of Revocation</i>
The Social Security (Credits) (Amendment) Regulations (Northern Ireland) 1983	<a href="#">S.R. 1983 No. 31</a>	Regulation 2(a)
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment) Regulations (Northern Ireland) 1986	<a href="#">S.R. 1986 No. 82</a>	The whole of the regulations
The Social Security (Credits) (Amendment No. 2) Regulations (Northern Ireland) 1987	<a href="#">S.R. 1987 No. 220</a>	Regulation 3(a) and (b)
The Social Security (Contributions) (Amendment No. 4) Regulations (Northern Ireland) 1987	<a href="#">S.R. 1987 No. 468</a>	Regulation 5
The Social Security (Credits) (Amendment) Regulations (Northern Ireland) 1988	<a href="#">S.R. 1988 No. 105</a>	Regulation 2(2)
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment No. 2) Regulations (Northern Ireland) 1988	<a href="#">S.R. 1988 No. 355</a>	Regulation 3
The Social Security (Unemployment, Sickness and Invalidity Benefit) (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 194</a>	Regulation 2(4) and (5)
The Social Security (Credits) (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 368</a>	Regulation 4(b)
The Social Security (Abolition of Earnings Rule) (Consequential) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 373</a>	Regulation 11
The Social Security (Unemployment, Sickness and Invalidity Benefit and Severe Disablement Allowance)	<a href="#">S.R. 1992 No. 146</a>	Regulation 2

Column (1) <i>Citation</i>	Column (2) <i>Statutory Rule</i>	Column (3) <i>Extent of Revocation</i>
(Amendment) Regulations (Northern Ireland) 1992		
The Social Security (Miscellaneous Provisions) (Amendment No. 2) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 298</a>	Regulation 4
The Social Security (Sickness and Invalidity Benefit and Severe Disablement Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 1994	<a href="#">S.R. 1994 No. 152</a>	Regulation 2

## EXPLANATORY NOTE

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

These regulations make amendments and transitional provisions consequential on the replacement from 13th April 1995 of sickness benefit and invalidity benefit by incapacity benefit, which is introduced by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994.

Part I relates to citation, commencement and interpretation.

Part II amends various social security regulations by replacing references to sickness and invalidity benefit with references to incapacity benefit. In addition—

Regulation 5 amends the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975 so that a beneficiary will be regarded as having a dependent for the purposes of those regulations if he either satisfies a condition for an increase in benefit in respect of an adult dependent or would have satisfied such a condition had the conditions for increases for dependents in respect of sickness or invalidity benefit continued to apply after 12th April 1995.

Regulation 6 provides for the meaning of a “day of incapacity for work” in relation to credits.

Regulation 7 inserts a new regulation 11B into, and substitutes Schedule 1 to, the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976. These provide for certain provisions of the Social Security (General Benefit) Regulations (Northern Ireland) 1984 relating to disqualification and suspension of benefit to apply to invalid care allowance as they apply to incapacity benefit.

Regulation 8 applies the provisions of the Social Security Benefit (Persons Residing Together) Regulations (Northern Ireland) 1977 which deal with the circumstances in which a person is to be treated as residing with their spouse when in hospital or temporarily absent, to incapacity benefit.

Regulation 9 removes references to sickness and invalidity benefit from Schedule 1 to the Social Security (Graduated Retirement Benefit) (No.2) Regulations (Northern Ireland) 1978 so

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that these provisions, which deal with the rate of benefit payable to those over pensionable age, apply to unemployment benefit and certain transitional payments of incapacity benefit only.

Regulation 10 makes provision for the determination of Category A retirement pension for certain widows and widowers entitled to incapacity benefit.

Regulation 14 amends the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 to provide that where widow's pension at a reduced rate and long-term incapacity benefit are both payable these benefits may not be adjusted by reference to each other, and amends the provisions for adjustment where part-week payments of more than one benefit are adjusted and makes various other minor consequential amendments and savings.

Regulation 17 amends the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984 by omitting references to sickness benefit and invalidity benefit.

Regulation 22 provides that where a woman receives increases of benefit for a dependent spouse under the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 such benefit will be treated in the same manner as increases of incapacity benefit made under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 for the purposes of claiming adult dependency increases of retirement pension.

Part III and the Schedule contain transitional provisions and savings relating to sickness and invalidity benefit in respect of the review of decisions, the recoupment of benefit and entitlement to credits and consequential revocations.

These regulations make in relation to Northern Ireland only provision corresponding 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.