

**2008 No. 429**

**SOCIAL SECURITY**

**The Employment and Support Allowance (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2008**

*Made* - - - - *24th October 2008*

*Coming into operation* - *26th October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 25(2) of, and paragraphs 2(a) and 3(b) of Schedule 4 to, the Welfare Reform Act (Northern Ireland) 2007(a).

**Citation and commencement**

1. These Regulations may be cited as the Employment and Support Allowance (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 26th October 2008.

**Amendment of the Employment and Support Allowance (Transitional Provisions) Regulations**

2. In regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations (Northern Ireland) 2008(b)—

- (a) omit “or” after sub-paragraph (b); and
- (b) after sub-paragraph (c) add—
  - “(d) a claim for income support on the grounds of disability made by a claimant who is entitled to incapacity benefit or severe disablement allowance; or
  - (e) a claim for incapacity benefit made by a claimant who is entitled to income support on the grounds of disability.”.

Sealed with the Official Seal of the Department for Social Development on 24th October 2008

(L.S.)

*John O’Neill*  
A senior officer of the Department for Social Development

## EXPLANATORY NOTE

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

These Regulations amend regulation 2 of the Employment and Support Allowance (Transitional Provisions) Regulations (Northern Ireland) 2008 (“the principal Regulations”), which relate to the introduction of employment and support allowance. Regulation 2(1) of the principal Regulations sets out the general rule that a claim for incapacity benefit, severe disablement allowance or income support on the grounds of disability in respect of a period beginning on or after 27 October 2008 is to be treated as a claim for an employment and support allowance. Regulation 2(2) of the principal Regulations lists exceptions to this general rule.

These Regulations amend regulation 2(2) of the principal Regulations to add to the list of exceptions. This allows a person who is entitled to incapacity benefit or severe disablement allowance to continue to be able to claim income support on the grounds of disability and for a person who is entitled to income support on the grounds of disability to continue to be able to claim incapacity benefit.

Section 25(2) of, and paragraphs 2(a) and 3(b) of Schedule 4 to, the Welfare Reform Act (Northern Ireland) 2007, the enabling provisions under which these Regulations are made, were brought into operation for the purpose only of authorising the making of regulations on 1st July 2008, and for all other purposes on 27th July 2008, by virtue of the Welfare Reform (2007 Act) (Commencement No. 5) Order (Northern Ireland) 2008 (S.R. 2008 No. 276 (C. 14)).

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