

## EXPLANATORY MEMORANDUM

### THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS NO. 2) REGULATIONS (NORTHERN IRELAND) 2009

S.R. 2009 No. 240

#### 1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 1(1), 5(1)(a), (b), (h), (j), (k) and (q), 5A(6)(c) and 165(1), (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and Articles 10(1)(a), 11(6) and 74(1), (3) and (6) of the Social Security (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.

#### 2. Purpose

- 2.1 These Regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 to more accurately reflect the process that applies when a defective telephone claim for benefit is made. Other amendments clarify the policy intention, address defects or anomalies and make further consequential provision overlooked on the introduction of Employment and Support Allowance.
- 2.2 Regulation 1 provides for the title and commencement.
- 2.3 Regulation 2 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to—
  - enable the Department for Social Development to specify a postal address to which a claim in writing or other written material is to be submitted;
  - provide for Category B retirement pension to be awarded without the need to make a claim if the beneficiary's deceased spouse or civil partner was entitled to a Category A retirement pension;
  - enable certain claims for employment and support allowance to be made to a designated office or an authority;
  - bring the provisions of regulations 4 and 6 on telephone claims more closely into line with those relating to written claims;
  - allow the Department for Social Development flexibility to accept telephone claims for income support or jobseeker's allowance at its discretion as well as in relation to categories of cases;

enable claims for employment and support allowance made by telephone to be amended by telephone;

reinstate a provision which was previously omitted in error regarding the time for providing a properly completed claim form;

allow information or evidence relating to an award of employment and support allowance to be provided to an authority administering housing benefit or person providing services to, or exercising any functions of, that authority;

include service charges for certain premises provided and maintained under Article 4(2) of the Probation Board (Northern Ireland) Order 1982 in payments that may be made to third parties.

2.4 Regulation 3 amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 to –

provide that a decision may be revised where an award for income support is terminated and the claimant goes on to successfully claim jobseeker's allowance but the termination is subsequently revised or reversed on appeal;

make minor clarificatory amendments.

2.5 Regulation 4 makes consequential revocations.

### **3. Consultation**

3.1 As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain they do not have to be submitted to the Social Security Advisory Committee.

### **4. Equality Impact**

4.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations and concluded that, as they make minor or technical amendments which are entirely beneficial, they do not have significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment is not necessary.

### **5. Regulatory Impact**

5.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

### **6. Financial Implications**

6.1 The Regulations do not have any financial implications.

## **7. Section 24 of the Northern Ireland act 1998**

7.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

- (a) is not incompatible with any of the Convention rights,
- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **8. EU Implications**

8.1 Not applicable.

## **9. Parity or Replicatory Measure**

9.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2009 and come into force on 13th July 2009. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.