

2009 No. 327

SOCIAL SECURITY

The Social Security (Incapacity Benefit Work-focused Interviews) (Amendment) Regulations (Northern Ireland) 2009

Made - - - - *25th September 2009*

Coming into operation - *26th October 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 2A(1) and (3) to (5) and 165(4), (5) and (7A) of the Social Security Administration (Northern Ireland) Act 1992(a), and now vested in it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity Benefit Work-focused Interviews) (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 26th October 2009.

(2) In these Regulations—

“the 2001 Regulations” means the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2001(c);

“the 2003 Regulations” means the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003(d); and

“the principal Regulations” means the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008(e).

Amendment of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations

2.—(1) The principal Regulations are amended in accordance with paragraphs (2) to (5).

(2) For regulation 2(3) (relevant claimant) substitute—

“(3) The second condition is that at least one of the following sub-paragraphs applies to the person—

(a) immediately before 15th December 2008 the person was a “relevant person” within the meaning of—

(a) 1992 c. 8; section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by Article 2(2)(b)(i) of S.R. 2002 No. 321, and section 165(7A) was inserted by paragraph 58 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) See Article 8(b) of S.R. 1999 No. 481

(c) S.R. 2001 No. 176

(d) S.R. 2003 No. 274

(e) S.R. 2008 No. 465

- (i) the 2001 Regulations, as saved by regulation 15(2) of the 2003 Regulations,
or
- (ii) the 2005 Regulations;
- (b) the person—
 - (i) is under 25 years of age, and
 - (ii) has been in receipt of a specified benefit for a continuous period of at least 12 months;
- (c) at any time before 26th October 2009, the person has been required to take part in an interview under the 2003 Regulations by virtue of having made a claim for, or being entitled to, a specified benefit;
- (d) the person makes a claim for a specified benefit in respect of a period beginning after 26th October 2008 and that claim is of a description referred to in regulation 2(2) of the Employment and Support Allowance (Transitional Provisions) Regulations (Northern Ireland) 2008(a).³

(3) In regulation 7(3) (failure to take part in a work-focused interview) for “good cause has not been shown for that failure within 5 working days of the date on which the designated authority gives notification of that failure” substitute “the claimant has not shown good cause in accordance with paragraph (1)”.

(4) In regulation 8(12)(a) (consequences of a failure to take part in a work-focused interview) for “below” substitute “to below”.

(5) In regulation 11 (revocations, savings and transitional provisions)—

(a) after paragraph (2) insert—

“(2A) This paragraph applies to a relevant claimant who—

- (a) at any time before 26th October 2009 has been required to take part in an interview under the 2003 Regulations by virtue of having made a claim for, or being entitled to, a specified benefit; and
- (b) immediately before that date was subject to the consequences specified in regulation 11 of the 2003 Regulations (failure to take part in an interview).

(2B) Where paragraph (2A) applies to a relevant claimant—

- (a) the person continues to be subject to the consequences specified in regulation 11 of the 2003 Regulations; and
- (b) any other provision of the 2003 Regulations continues to have effect insofar as is necessary to give full effect to sub-paragraph (a).³;

(b) in paragraph (3)—

- (i) after “paragraph (2)(a)” insert “or (2B)(a)”,
- (ii) after “the 2005 Regulations” insert “or, as the case may be, regulation 11(2) of the 2003 Regulations”.

Amendment of the Social Security (Work-focused Interviews) Regulations

3. In regulation 15(2) of the 2003 Regulations (revocations and transitional provision) for “, is both a relevant person and entitled to a specified benefit for the purposes of those Regulations” substitute—

“—

- (a) is a relevant person for the purposes of those Regulations;
- (b) is entitled to income support; and

(a) S.R. 2008 No. 283; regulation 2 was amended by regulation 2 of S.R. 2008 No. 429

- (c) does not fall within paragraph 7, 24 or 25 of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987(a) (prescribed categories of person)".

Savings and transitional provisions

4.—(1) Regulation 11(1), (2)(c) to (13) of the 2001 Regulations (failure to take part in an interview), as saved by regulation 15(2) of the 2003 Regulations, continues to have effect as if the amendment set out in regulation 3 had not been made in respect of a person who immediately before 26th October 2009 is—

- (a) entitled to a specified benefit as defined in the principal Regulations; and
- (b) subject to the consequences specified in regulation 11(1), (2)(c) to (13) of the 2001 Regulations.

(2) Any other provisions of the 2001 Regulations, as saved by regulation 15(2) of the 2003 Regulations, continue to have effect insofar as it is necessary to give full effect to paragraph (1).

(3) For the purposes of regulation 8(8), (9) and (11) of the principal Regulations (reduction ceasing to have effect), a person referred to in paragraph (1) is deemed to be subject to the consequences under regulation 8(1) of the principal Regulations (reduction for failure to take part in a work-focused interview) and from the date the reduction ceases to have effect regulation 11(1), (2)(c) to (13) of the 2001 Regulations shall cease to apply to that person.

Sealed with the Official Seal of the Department for Social Development on 25th September 2009

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) S.R. 1987 No. 459; Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199; paragraph 24 was amended by Article 9(4)(a) and (b) of S.R. 1999 No. 371 (C. 28) and paragraph 25 was amended by Article 9(4)(b) of S.R. 1999 No. 371 (C. 28), regulation 4(3) of S.R. 2000 No. 4 and regulation 3 of S.R. 2005 No. 46

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008 (“the principal Regulations”), which aligned the work-focused interview regime for incapacity benefit, severe disablement allowance, or income support claims on the grounds of incapacity (“specified benefits”) with the work-focused interview regime applying to persons entitled to employment and support allowance.

Regulation 2 extends the principal Regulations to additional categories of persons entitled to specified benefits and also makes transitional provision in the case of persons who were previously subject to the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) so that a reduction imposed under those Regulations will continue to apply.

Regulation 3 amends regulation 15 of the 2003 Regulations, which revoked provisions of the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2001 (“the 2001 Regulations”) subject to certain savings, to discontinue those savings in relation to persons claiming certain specified benefits.

Regulation 4 makes savings and transitional provisions. It provides that persons subject to a reduction under the 2001 Regulations remain subject to those Regulations until the ending of that reduction.

These 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 and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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